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WILLIAM EWART GLADSTONE,

M.P., D.C.L.,

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PREFACE.

THE Customs' Consolidation Act has met with a more favourable reception, than commonly falls to the lot of penal or restrictive statutes. This is not so much to be attributed to anything new in its provisions as to the combination and arrangement of pre-existing law and practice, which it has effected. With the exception of the changes effected in pursuance of the Treasury Minute of the 14th of April last, and a few clauses engrafted on the bill, in its progress through Parliament, there is no substantial variance between the law, as now consolidated, and the practice, which prevailed under the former statutes. Although the former *lex scripta* remained, its provisions had, from time to time, been modified by such relaxations, as were called for by our expanding commerce, and deemed not incompatible with the security of the Revenue.

The Act has now been in force for more than six months, and it is not unworthy of remark, that, whilst it has greatly facilitated the operations of trade, no official inconvenience, has been experienced in its working, nor, indeed, has any complaint been made by any portion of the mercantile body, except as regards one or two provisions, engrafted on the bill, in its progress through the House

of Commons—provisions, adopted on the suggestion of deputations from the merchants themselves. These were found so embarrassing in practice, that, they have already been dispensed with, by order of the Treasury, at the request of their originators.

It will be, probably, admitted, that the preparation of a work, to explain the law and practice of the Customs, was not inappropriately confided to the Solicitor. But, he does not, on that account, presume to claim any especial credit for his performance. In executing the task, he has not felt himself bound to adhere to the course pursued by the several authors, who had preceded him. There appeared to be no good reason, why a work on the Customs' Laws should not aspire to the rank of a regular and methodical treatise, designed, not only for the instruction of the officers, but for the assistance of the merchant in his transactions with them ; having regard, at the same time, to the convenience of the legal profession.

For one liberty taken by him some explanation may be required. It will be observed, that the chronological order of the Tariff and Consolidation Acts, chapters 106 and 107, has been reversed. As a frequent complaint against bye-gone legislation has been the multiplying of Revenue Acts, without regard to order, and the repetition of formal clauses in the Duties' Acts on each successive change in the Tariff, one of the objects of the present consolidation was to form a code of standing clauses, easy of reference, for regulating the collection and general management of the Customs, and leaving little more to be done, on each succeeding amendment of the Tariff, than the substitution of new tables of Duties. Hence, the Tariff Act is treated, as supplemental to the Consolidation Act, to which, as the governing code, precedence is given in the Commentary.

Before the passing of the Customs' Consolidation Act,

the reports, those especially of the Court of Exchequer, would have furnished a considerable array of judicial decisions. It was, however, a leading object of the new Act to quiet pre-existing legal doubts and difficulties; and, as a consequence of the attainment of that object, a reference to many of the points formerly decided can be no longer necessary. Nevertheless, there remain various cases, involving principles of importance, which it would not be judicious to overlook. Hence, not only the published, but many manuscript reports, have been diligently examined and the decisions still applicable, though comparatively few, have been carefully noted.

Another feature of the present work is the circumstance of its not embracing any matter in detail beyond the strict sphere of Customs' Revenue Law. In this respect, too, it departs from the example of antecedent publications, in which, it was customary to combine, in the same volume, with those strictly applicable to the Customs, the various other statutes, which imposed on the Department duties totally unconnected with revenue. It seemed expedient to afford the commercial community the means of ascertaining their legal rights, duties and obligations, without encumbering them with a weighty appendix of statutes, in which, as a body, they can have little or no concern, reserving those statutes for another publication for the guidance of the officers of Customs, and that portion of the community whose interests may be specially affected by them. A further reason for this course is to be found in the fact, that many of the latter class of enactments are now the subject of consolidation, and, in all probability, had they been appended to this work, a moiety of the volume would have become obsolete before the close of another session, not to speak of the time, labour and expense, which would have been thus wasted. It has, however, been deemed convenient to furnish, by

way of note, or abstract where necessary, such information as may be essential for present official purposes. The work, now submitted to the public, will be followed by a supplementary volume, comprising, as a prominent portion of its contents, the new law, relating to the Mercantile Marine, including the registry of shipping, and the other statutes incidental to Customs' administration, not appended to this volume.

In submitting the following pages to the public, the author is but too sensible of the deficiencies of his performance. But, in his case, at least, and, at a period, when the official duties of the department of the service, over which he presides, have become onerous, beyond all former example, he hopes for the indulgent consideration of his readers.

STOKE NEWINGTON,
May 1, 1854.

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*. The following List of Statutes may appear somewhat inconsistent with the fact that the whole of the Customs' laws are consolidated in one Act. A considerable number of them are merely referred to in elucidation of the various subjects treated of, and the remainder have no reference to the Customs in strictness, although that department is charged to a large extent with the administration of them.

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INTRODUCTION.

THE legislative history of the Customs' Duties may be regarded as originating with the statute 3 Edward I., though those duties, or impositions analogous to them, appear to have had a long antecedent existence. Great Britain did not escape the exactions which the Roman conquerors were always prompt to impose upon vanquished and tributary kingdoms; and the revenues of the Cæsars were swelled by heavy duties on the importation and exportation of British merchandise.⁽¹⁾ Nor were the Saxon

(1) The ancient Romans showed no mercy to the nations they conquered. No sooner were the natives completely disarmed, and a little inured to the yoke, than they found how fatal it was to be subject to distant rulers, ignorant of their situation, and careless of their complaints. Provided a revenue was raised, they were little anxious about the means by which it was effected: but tyranny defeats its own object, and those countries are uniformly the most productive of revenue, where there is the least oppression, and where the greatest attention is paid to the happiness and prosperity of the people.

The taxes paid by Britain, and the other provinces of the empire, were partly levied in kind, and partly in money. Those who paid taxes in kind, were obliged to furnish about a tenth part of the produce of their lands, and to carry the quantity they were rated at, to any distance however great, according to the supposed necessities of the State, or to the

monarchs slow to copy the example which the Romans had set them of this ancient method of raising a revenue.⁽¹⁾ Etheldred II., amongst the laws enacted at Wantage, in Berkshire, established duties on ships and merchandise to be paid at Billingsgate in the Port of London, according to the following rates:—Every boat arriving at that part of the Thames paid for toll or custom, one half-penny; a larger boat with sails, a penny; a keel or hulk, which was a vessel of larger size, fourpence; a vessel with wood, one piece of wood; a boat with fish coming to the bridge, one half-penny, or one penny, according to her

caprice of those who were in power. So heavy a duty was laid upon cattle (in which Britain particularly abounded), that, joined to other grievances, it was the occasion of a very dangerous revolt, which was not extinguished but with the greatest difficulty. Heavy customs were paid upon goods both imported and exported. The proprietors of mines were obliged to pay a certain share of their profits, for the benefit of the State. A duty was laid upon commodities sold by auction, or in the public market, above a certain value. Capitation taxes were rigorously exacted; to which might be added a variety of other imposts on legacies, slaves, houses, pillars, hearths, air, artists, animals, and other articles too tedious to mention. "Nay, such, it was said, is the exquisite tyranny, and insatiable avarice of the Romans, that they extort taxes even from the dead" (*Xiphil. ex Dione Nicolo, in Nerone*); alluding to a duty upon the body of the deceased, before it was suffered to be buried." —*Sinclair on Rev.*, p. 19.

(1) By the original constitution of the Anglo-Saxon government, there were three important duties, commonly known by the name of the *trinoda necessitas*, to which every proprietor of land was subject. At first, they were exacted in kind, and every individual was obliged to appear in person, when legally called upon, for the purpose of repelling the enemy, of constructing fortresses for the public defence, or repairing the bridges necessary for the internal commerce of the country. Such services, both for the advantage of the State, and the convenience of its more opulent and industrious members, were gradually converted into money; and hence arose the taxes known under the name of *Here-geld*, *Burg-bote* and *Brig-bote*, which it appears were occasionally levied by the Saxon monarchs.—*Sinclair on Rev.*, p. 19.

size.⁽¹⁾ The Customs' Duties are supposed to have been, at the commencement, small sums paid by the merchant for the use of the King's Warehouses, weights, and measures.⁽²⁾ But these were extended in course of time and commuted into an impost upon merchandise itself, the consideration given by the Crown being permission to its own subjects, to travel out of the realm with their merchandise, and to foreign merchants, to import goods into the kingdom. To the foregoing, a further consideration may be added. As the arbiter of commerce, the Sovereign took upon himself the protection of merchants and their vessels from enemies and pirates; and the merchants acknowledged the value of this protection by freely submitting to the imposts levied.

In referring the legislative foundation of Customs' Duties to the reign of Edward I., the high authority of Lord Coke, concurred in by Mr. Justice Blackstone, is adopted.⁽³⁾ The duties themselves, when first laid on, were very moderate; but the necessities of King Edward led to the imposition of additional duties on aliens or foreigners, to reconcile them to which, he granted a charter, denominated *charta mercatoria*,⁽⁴⁾ to the merchant traders settled in England, by which valuable privileges were bestowed on them in consideration of their having agreed to pay the Customs of "prisage and butlerage,"

(¹) Anders. Hist. Com. 98.

(²) Sinclair on Rev. 45, Gill. Exch. 214. 2 Hume 177.

(³) Inst 59.—1 Bla. Com. 314, Vaughan 161, 162.

(⁴) A copy of this document will be found in Hargrave's Law Tracts.—p. 137.

together with certain duties on wool⁽¹⁾ exported from, and on various goods imported into, the kingdom. The right of adding to the old, or of levying new Customs, exercised upon the independent authority of the Sovereign, was for many years a subject of warm contest between the Crown and the people, the former asserting the right, as inherent to the Royal Prerogative, the people insisting, that it could not rest on any other legal foundation, than an Act of the Legislature.

The opinion of Lord Coke, as to the origin of the Custom duties, has not been universally admitted; Lord Chief Baron Gilbert accounts for their institution in a different manner: he says that in the reign of Edward the First, houses were erected in every port, for keeping wares and merchandize, imported and exported, and there was a particular sum paid for the *custodium*, which was called the Customs, and from whence he took the word to be derived. "For," he says, "when Edward the First, Richard the First, or whatever other king first erected those houses and appointed particular sorts of payments, they could not be called customary or usual payments, for it is a solecism in language to say, that they were customary or usually paid when they first began. The subjects bore these payments very well upon their wool, woolfels and leather from the convenience that arose from the Custom-houses, which formed a place of deposit for their goods." This, according to Lord Chief Baron Gilbert, was the

(1) Hargrave's Tracts, p. 116.

origin of the Customs, and he concludes his statement with the remark, "that there is no room to suppose that the Customs began by an Act of Parliament, which is lost," and which he describes "as the common refuge of lawyers when they cannot find the original of things."

After stating the arguments on either side, Mr. Chitty says:—"The better opinion seems to be, that the legal right of the Crown to demand such payments, as can with propriety be called Customs, originated in an Act of Parliament; and though similar duties were certainly exacted in the reigns of Queen Mary and Queen Elizabeth, of James I. and Charles I., without the consent of Parliament, yet they were never quietly submitted to, and cannot be considered as resting on any legal foundation. The statute 1 Wm. & Mary, sess. 2. cap. 2, usually called the Bill of Rights, has effectually put an end to the exercise of any such power on the part of the Crown."⁽¹⁾

The first Act for the Consolidation of the Customs' Duties, 12 Car. 2. cap. 4. was passed immediately after the Restoration. The Table of Duties enumerated in that Act was called the "*Book of Rates*," and the Statute itself was dignified with the title of "*The Great Statute*." It was undoubtedly an important enactment. Its effect was both prospective and retrospective. It confirmed, for the king's life, the old subsidies of tonnage and poundage, and woollen cloths; and it laid the

⁽¹⁾ 1. Chitty on Commerce, 697. *Shepherd v. Gosnold*. Vaughan, 161, 2, 3.

foundation of our modern Tariff broad and deep on the sanction of the legislature. An additional "Book of Rates" on goods usually imported, and not particularly rated in the former volume, with Rules and Orders, was signed in the reign of George I., by Mr. Speaker Compton, and authorised by the statute 11 Geo. I. cap. 7.

In addition to the duties enumerated in these books of rates, others were, from time to time, imposed, as the exigencies of the state required. A large increase was made to the articles charged with duty. The confusion arising from a multiplication of dutiable articles was aggravated by the careless manner in which new duties were accumulated on the old, a per centage being occasionally added to the original tax; while in other instances the commodity was estimated by a new standard, either of bulk, weight, number, or value, and charged with an additional impost, without any reference to the duties formerly imposed. The growing intricacy was still further augmented by the special appropriation of each of these duties, and by the consequent necessity of a separate calculation for each. (1) Delays, which em-

(1) The following process explains the method by which the duties payable under the "Book of Rates," &c., were ascertained. The case taken, is that of 20 lb of rhubarb, then subject to a duty of 20s. per pound. It will be observed, that in order to calculate the duty payable on this article, it was necessary to refer to seven different Acts of Parliament, some of them imposing duties in addition to those originally imposed; and again reducing those duties by discounts varying in amount. Others accumulating what were termed "New Subsidies" upon those previously chargeable; and others again, imposing independent duties upon the landing of the goods, together with additional duties after the landing had taken place.

barrasted the merchant, and blunders, which diminished the revenue, were the natural consequence of the

	Column 1.			Column 2		
	£	s.	d.	£	s.	d.
By the "Book of Rates," (12 Car. 2, c. 4)						
duty on 20 lb of rhubarb					20	0 0
By 12 Car. 2, c. 4, a subsidy of tonnage and poundage was made payable before landing, being on drugs, 5 per cent.	1	0	0			
This was entitled to a discount, 5 per cent.	0	1	0			
	<hr/>			0	19	0
2 W. & M., c. 5, imposed an additional duty on drugs of £10 per cent.					2	0 0
One-third of this was payable on importation direct, as in the above case	0	13	4			
Entitled to a discount of $6\frac{1}{2}$ per cent.	0	0	10			
	<hr/>			0	12	6
9 & 10 W. 3, c. 5, imposed a further duty of tonnage and poundage, called "New Subsidy," being on drugs 5 per cent., or one-third of the rate, being for every 20s. thereof, 4d.	0	6	8			
Entitled by same act to discount 5 per cent.	0	0	4			
	<hr/>			0	6	4
2 & 3 Ann, c. 9, imposed a further duty of tonnage and poundage, viz. one-third of the net "New Subsidy" (6s. 4d.),			0	2	1	$\frac{1}{2}$
3 & 4 Ann, c. 4, imposed an additional duty on drugs of 10 per cent.					2	0 0
One-third of this was payable on importation direct			0	13	4	
3 & 4 Ann, c. 5, imposed a further tonnage and poundage, viz. two-thirds of the net "New Subsidy" (6s. 4d.),			0	4	2	$\frac{1}{2}$
21 Geo. II. c. 2, imposed, over and above all other subsidies of tonnage and poundage for every 20s. of duty, 1s.	1	0	0			
	<hr/>			3	17	6
Add duties from col. 1 which were payable before the landing				3	17	6
				<hr/>		
Deduct the one-third duty paid on landing per 2 W. & M., c. 5			0	12	6	
And the one-third duty paid in like manner under 3 & 4 Ann, c. 4			0	13	4	
	<hr/>				1	5 10
Duty remaining to be paid after landing					£25	11 8

abuses, which such confusion tended to encourage⁽¹⁾. To remedy these inconveniences, Mr. Pitt introduced, in 1787, the statute 27th Geo. III. cap. 13, called "*The Customs' Consolidation Act.*" That Act was, in every respect, worthy of the financial genius of its author. It repealed all Customs' duties payable to his Majesty by virtue of any Acts of Parliament then in force on importation or exportation, or the carrying of goods coastwise together with the drawbacks allowed on exportation, and, proceeding upon the sagacious principle of clearing the ground for a new scale of duties and an improved method of collection, it swept away all the subsisting charges. Instead of those, it substituted a single duty upon each article, amounting, as nearly as possible, to the aggregate of all the various imposts then payable; and when any duty consisted of a fractional sum, the nearest integral number was charged. The series of resolutions submitted to the House of Commons for the purpose of carrying this measure into effect amounted to upwards of 3,000. A systematic simplicity and uniformity was by the same Act introduced into the Custom-house accounts in accordance with the recommendations of the Commissioners of Public Accounts. These officers, in three separate reports, had fully explained the constitution of the Customs' department, the duties of its several functionaries, and the mode of collecting the Customs, both in London and the out-ports. Finally, in lieu of the tables contained in the

(¹) I. Chitty on Commerce 700. Smith W. of N. 367 1 Blac. Com. 316 Christian's Ed.

old "Rate Books," the new duties were set down in alphabetical order in tables annexed to the Act.

These amendments were attended with the most beneficial effects to commerce. The same cause, however, which rendered their adoption necessary, again supervened to require ameliorations in the law. Statute was accumulated upon statute to such an extent, that the laws of the Customs in 1797, are reported by a Committee of the House of Commons to have been so voluminous, as to fill "six large volumes in folio, unprovided with any index, not published, and not to be commonly obtained by purchase."⁽¹⁾ These statutes continued to increase year by year, and became ultimately so numerous, that in the year 1810, the Lords of the Treasury decided upon the necessity of having a "Digest of the Laws of the Customs" prepared; and the late Mr. Jickling, of Her Majesty's Customs, who had already voluntarily devoted nearly twenty years to the work, and for which reason he was selected, was entrusted with the task. With an amount of perseve-

(¹) The state of the Customs' laws about thirty years earlier is thus described by Postlethwayte, Com. Dic., Letter A., "The body of Customs' laws is now swelled to an enormous size. As they are so numerous and many of them made with an eye only to some temporary purposes without regard to the circumstances and regulations prescribed in prior acts, it too often happens that they clash and interfere, so that in many cases it is difficult to fix a particular point; and as the repeals, expirations and revivals of several Acts are so frequent that it is often difficult to know whether a law is in force or not, it is no wonder they are no better understood by too many whose business it is to execute them; and much less by merchants whose business it is to know the privileges to which they are legally entitled and the penalties to which they are subject that they might reap the benefit of the one and avoid the injury of the other.

rance rarely exampled in so uninviting an occupation, Mr. Jickling applied himself to the completion of a Summary of the various statutes, with references to the acts themselves; and in 1815, he produced, as the result of this additional five years' unremitting labour, a Digest, in the shape of a large quarto volume of 1,375 closely printed pages. This work may be truly described as the fruit of a quarter of a century's labour; and was for many years the only official "Hand Book" to Customs' law and practice, with the exception of an abridgment, published in 1819, of the Laws relating to Imports and Exports, comprised in 629 pages, the joint production of Mr. Richard Frewin, one of the Chairmen of the Board, and of Mr. Jickling. From the bulk and high selling price of Mr. Jickling's Digest, its circulation was extremely limited, and its utility commensurately circumscribed.

In 1824, the idea was first entertained of bringing the non-obsolete of these provisions together, and Mr. James Deacon Hume, then Comptroller of Customs at the Port of London, undertook the task. After an uninterrupted labour of three years, he succeeded in collating the scattered enactments and bringing them into something like order, classified and arranged under ten different heads, and embodied in as many separate Acts of Parliament. This was justly deemed a great triumph of industry and skill; and it may be affirmed, without detracting from the peculiar merits of Mr. Jickling's performance, that it was the first practically successful step taken in the right direction; but in the subsequent dealings with the Cus-

toms' Laws, so far from progressing in the cause of legal reform, the rather retrograde course of resorting to separate amendment Acts was from time to time adopted. Even Mr. Hume's second Essay was a species of duplex consolidation, consisting of a re-issue of the ten original Acts, with a yearly Supplement, giving, in addition to the originals, the various amendment Acts passed annually. This was followed by a series of annual supplements, which, in their turn, became the subject of further codification, in 1845, by the late Mr. Walford, Solicitor of Customs, for which purpose he was, for many months, released from the ordinary duties of his office. But, he was not much more successful in his efforts at reform, inasmuch as, treading in the steps of Mr. Hume, he simply consolidated the existing law, by introducing into the ten original Acts, the clauses of the subsequent amendment Acts. In each of these separate statutes, the same arrangement of subject had been observed, as in Mr. Hume's pre-existing ones, the amendment clauses being classed under their respective heads. The character of Mr. Walford's Consolidation of 1845 cannot be better conveyed than by an extract from the preface to his compilation:—"To effect this, a Repealing Act has been passed, by which the then existing ten Acts and all amendments of them were repealed, and ten other Acts have also been passed, founded upon Mr. Hume's Consolidation, adopting his arrangement, and embodying in their respective places the different existing provisions by which alterations had been effected."

Thus, it appears, that the "Consolidation" of 1845, was little more than a republication of the pre-existing sections of the law almost verbatim, in the same form, in the same number of Acts, and under the same titles, as those originally adopted by Mr. Hume. Indeed, the most striking commentary on the impolicy of this species of legislation is to be found in the fact, that by this mechanical process of transcribing the sections as he found them, not only did the compiler fail to expunge the clauses, which lapse of time, the progressive changes in commercial operations, and the adaptation thereto of Customs' practice, had rendered obsolete, but actually re-enacted and revived many provisions, which had either been annulled by Treasury order, abrogated by relaxations of the executive, or, *de facto*, repealed by Parliament. There was, therefore, some foundation for the complaint, that the Consolidation of 1845, and the rapid succession of amendments, numbering in the course of the six ensuing years as many Acts as the originals, formed a code so voluminous and perplexing as almost to forfeit all claim to that appellation; and, despite the old legal maxim, that the subject is presumed to know the law, and therefore bound by it, common justice demanded, that the acquisition of that knowledge should be rendered as easy of attainment as possible. Impressed with this view, the present Solicitor of Customs more than three years ago, suggested to the Board the propriety of consolidating into one Act all the existing provisions, which it might be deemed essential to retain, subject to such modifications as the progress of

commerce and the course of trade had rendered indispensable, and of sweeping away, at the same time, by a general repeal, all that might be considered obsolete or redundant. This proposition was cordially received by the Commissioners, and general instructions were given by the Board to proceed with the project as opportunity served. Some explanation may, therefore, reasonably be looked for as to the cause of the delay. From the peculiar nature of the subject, its intimate connection with particular commercial operations and the necessity (though the primary object of these laws is the security of the revenue), for a practical adaptation of the Customs' code to the circumstances and requirements of trade, it is obvious, that such a work could not, with a reasonable prospect of success, have been delegated to any professional men, however eminent, who did not combine with their legal attainments, an intimate acquaintance with the actual working of the laws, regulations, and general practice of the Customs' department, and the daily avocations of the mercantile body in connexion with it. This combination could only be attained by progressive and practical experience. Hence it was, that the task naturally devolved upon the Solicitor of Customs. It is not necessary to dwell upon the series of events, which, for nearly three years, diverted his attention from this important undertaking, beyond the observation that a considerable portion of that time was devoted to the subject of the recent enquiry by the Select Committee of the House of Commons, into the "Constitution and Management of the Customs." The

consideration of the reports of that Committee, as well as the directions of the Government upon them of necessity enter largely into the question; and pending the promulgation of these, it would have been premature to have proceeded extensively with the work, even had the absorbing avocations of the Solicitor's department left him leisure for the task. Thus, by force of circumstances, the main work of consolidation was delayed, until the issue of the Treasury Minute of the 14th of April last, which detailed the important amendments, which their Lordships had decided, should be effected in the law.

The Government attached great consequence to the speedy development of the general scheme, and the practical adoption of the special provisions of the Treasury Minute; promising, as the latter did, advantages to the commercial community, which it would have been inexpedient to postpone. The work, therefore, proceeded with all possible despatch; and unremitting attention was devoted by the Board and their Solicitor to the preparation of the Bill, under the directions of the Lords of the Treasury. To the anxiety of the Government to consult the best interests of the mercantile community, so far as compliance might not affect the security of the revenue, may, to a great extent, be attributed the favour with which the measure has been received by that body. The Bill has now passed into a law, not only without opposition, but, it may be added, as a just tribute to honourable candour, with a general expression of the approbation of those, who at one

time entertained feelings of distrust towards that branch of the executive to whom the task of its preparation had been confided. ⁽¹⁾

Having thus traced the history of Customs' legislation from its earliest date down to the passing of the "Customs Consolidation Act of 1853," an outline of the vast extent of duty which the law imposes, may furnish the means of forming an adequate appreciation of the arduous work to be performed by the Commissioners, while affording, at the same time, a clue to the policy and purposes of the new enactment.

The first branch of the statute comprises all that concerns the appointment of Officers — their salaries, superannuations, securities for good conduct, times of attendance, and duties generally. Connected with

(1) The ingenuousness and promptitude with which the representatives of the commerce of the great port of Liverpool recorded their testimony to the anxiety of the Government and the Customs' Department to respond to every reasonable suggestion of the mercantile body, claim the author's most respectful recognition. A communication to this gratifying effect was made a few days after the passing of the Act, by Thomas Bouch, Esq. Vice-President of the Council of the Chamber of Commerce, conveying the *unanimous* resolution of that body, at a meeting "*specially convened for the purpose*," expressive of their "*best thanks to James Wilson, Esq., M. P., Secretary to the Treasury; Sir Thomas Fremantle, Chairman; F. J. Hamel, Esq., Solicitor; and F. St. John, Esq., Surveyor-General to the Board of Customs.*" An equally prompt and honourable testimony was officially communicated to the three former gentlemen on the part of the Dock Companies, recognizing the exertions of the executive, not merely with regard to "*the interests and accommodation of the commercial community of that port*," but "*the very many other beneficial improvements of a still more public character which have been effected by the Customs' Consolidation Act, in our fiscal law.*"

this division of the subject may be mentioned the appointment of ports, quays, warehouses, sufferance wharves, landing and boarding stations, the licensing and control of agents, and requiring the proper securities from them. Within the same classification are placed the receipt and payment of duties and the maintenance of the necessarily voluminous accounts incident to such extensive pecuniary operations. Embraced also, under this head, but distinct from the subsequent clauses relating to procedure in the Courts of Judicature, is the foundation of an open court for the determination of disputes and controversies between the merchant importers and the officers of Customs.⁽¹⁾

The second branch of the statute contains the several provisions applicable to the importation and warehousing of goods, extending from sec. 20 to sec. 54. These comprise the law as now applicable to ships on arrival in port—the importation of goods, the report and entry of them, the various modes of entry now required of the importer, abatement for damage, certificates of produc-

(1) It is a curious fact, and strikingly indicative of the misapprehension under which the establishment of an open court was urged upon the Government, that although 10 months has elapsed since the passing of the Act, the exercise of the functions of this tribunal has only been evoked in a single instance; from which it is reasonable to infer, either that such a tribunal was not so much desired, or that the mercantile and other interests for whom it was professedly instituted, really have few complaints to prefer; and that solitary case was merely to settle a doubt in the trade as to the definition of an *harmomium stop*.—ED., 22nd April, 1854.

tion in respect of imports, the growth or manufacture of the Colonies, &c., the unshipping, landing and examination of the cargo, the regulations for warehousing and securing goods, the payment of duties on which is postponed, the removal of warehoused goods, entry for home consumption and exportation, and lastly, certain Excise provisions, engrafted on the Bill, at the instance of the Board of Inland Revenue, during its progress through Parliament.

Having exhausted the subject of importation, its incidents and consequences, the Act proceeds to deal with the third division,—exports and their attendant circumstances. In this distribution of its provisions a varied range of duty is prescribed, embracing the entry and clearance of goods, payments of drawback, shipping of stores, the clearance of ships outwards, and the boarding of ships after clearance.

The fourth head embraces the regulations affecting the coasting trade.

The fifth division embodies those provisions, which it has been deemed judicious to retain with reference to the British Possessions.

The sixth part deals with the important subject of Bonds and other Securities, given for the due performance of the obligations imposed on various classes of persons by the Customs Code generally, the principal alteration consisting in the substitution of a more inexpensive and expeditious mode of discharging the persons and estates of Crown debtors from the liabilities incident to those securities.

The seventh head contains general provisions in respect of minor classes of forgery, false declarations, and fraudulent counterfeitings.

In the eighth division of the subject will be found the existing law as to offences against the Customs generally ; that of smuggling, holding from its character the most prominent place, and made punishable by nearly the same penal inflictions as under the former statute. It seems the fatal necessity of this crime, that, whilst every other breach of the divine and social law may be visited by penalties, accordant with the mild temper of our civilised times, the law, with respect to smuggling, cannot be disarmed of its rigours. This may be attributed to two causes : First, The strange anomaly which appears to be generally admitted, that many persons who would recoil from committing a dishonourable act towards a neighbour, and spurn with indignation the suggestion of cheating their fellow men, in the ordinary relations of business, or the common affairs of life, nevertheless feel no compunction in defrauding the Crown with reference to their statutable liabilities. So far from having any scruples as to the evasion of the imposts and taxes which the exigencies of the state demand from him in common with his fellow subjects, the contrabandist views the perpetration of such fraud, not only with complacency, but persuades himself that there is something meritorious in the achievement of success. Thus, smuggling ceases to be viewed as a crime, and moral restraint has

little influence on its prevention (1). Secondly, The artifices to which the professed smuggler resorts are of so subtle a character as to present in their application, proofs of the highest degree of ingenuity. Smuggling is no longer the bold profession of the daring contrabandists who, until the close of the last century, landed their cargoes in defiance of the law and resorted to open violence on the least show of resistance. It has, as exercised by modern practitioners, degenerated into petty chicanery. Fraud is perpetrated by every species of deception that can be devised; and in proportion to the difficulties of detection consequent on such dexterous practices does the necessity for punishment become indispensable when detection ensues. If any doubt could exist as to the exceptional character of penal enactments designed to protect the revenue collected for the benefit of all, it must be found in the fact, that, however strange, a morbid sympathy for the offender is felt rather than abhorrence of his conduct; whilst those whose unpopular duty it is to protect the revenue and punish the violator of its laws are stigmatised as myrmidons of oppression. The administrators of these laws are

(1) Not many people are scrupulous about smuggling, when, without perjury, they can find any safe and easy opportunity of doing so. To pretend to have any scruple about buying smuggled goods, though a manifest encouragement to a violation of the revenue laws and to the perjury which almost always attends it, would, in most countries, be regarded as one of those pedantic pieces of hypocrisy which, instead of gaining credit with any body, serves only to expose the person who affects to practise it to the suspicion of being a greater knave than most of his neighbours. By this indulgence of the public the smuggler is often encouraged to continue a trade which he is thus induced to consider as in some measure innocent.—*Smith's Wealth of Nations*.

not however, prone to indulge in wanton prosecutions. No better evidence can be afforded of the moderation which guides the executive, and of the justice of its proceedings, than their actual results. It may be stated as a fact indicative of the caution with which the criminal clauses of the Customs' code are resorted to, that between two and three thousand persons are annually convicted of the offence of smuggling, whilst not one in a hundred is acquitted, either on the merits of the case or even on technical grounds. But, whilst the notorious smuggler has been thus efficiently prosecuted, the official returns for the last seven years show fewer suits against members of the mercantile body, than any corresponding antecedent period of the last half century, such suits being instituted only in accordance with the imperative requirements of the law, under pressure of absolute necessity, and in any case of special importance, by the advice of the Law Officers of the Crown.

The ninth classification comprehends the law of procedure generally, commencing by laying down the new rule as to costs between the Crown and the subject, in pursuance of which the former, in future Customs' cases, is placed on the same footing as an ordinary litigant. The clauses which specially apply to summary procedure before justices come next in order, and following upon them, are the provisions, which take away the jurisdiction of the superior courts in cases between the Crown and the subject, where the amount claimed by the former for duties and penalties does not exceed a certain sum. Here, also, are embodied the recommendations of the

Treasury Minute, in accordance with which the courts of inferior jurisdiction throughout the kingdom are thrown open for the trial of cases of limited amount and minor interest between the Crown and the subject ; and, giving the most liberal interpretation to that Minute, an important change is effected as to jurisdiction with respect to actions against Customs' officers, it being now open to parties feeling themselves aggrieved to seek reparation for any official wrong in the County Courts in England, the Assistant Barristers' Courts in Ireland, and the Sheriff's Court in Scotland.

The tenth head embraces the law of reciprocity, which adopting the expansive policy of recent times, authorises the Crown, without the necessity of an antecedent convention, to make commercial concessions to foreign states, when the liberality of their conduct towards us entitles them to such consideration, and also to requite the harsh or illiberal measures of foreign powers by a retaliation habitually excused by the reciprocal claims of commerce.

The land clauses form the eleventh division. These are considerably abridged from their former bulk. The trouble imposed by them adds not a little to the burden of Customs' administration. The Custom-houses of the various ports in the United Kingdom, the coast-guard stations and watch-houses are subject to frequent alteration. Changes in the ports arising from railway communication, the fluctuations of business, the shifting of markets for foreign produce, and other causes, give rise to frequent transfers, surrenders—under-lettings and new purchases—which occasion a considerable weight of correspondence,

not to speak of the number of conveyances, leases and assignments, prepared in the solicitor's department under the directions of the Board.

Lastly, the pre-existing law relating to the Isle of Man, heretofore the subject of distinct enactment, is adapted to and engrafted on the Consolidation Act. That island is now, for Customs' purposes, declared to be a part of the United Kingdom, and is subject therefore to the same general laws, though possessing a separate Tariff and some privileges, peculiar to the ancient Isle of Mona, which have been respected in this incorporation for revenue purposes.

Having thus glanced at the leading provisions of the Customs' Consolidation Act, the less technical portion of the subject remains to be considered, viz., the provisions of the coteremporaneous statute for regulating the existing Customs' duties. In referring to this important enactment, it appears difficult to appreciate the boon, which it confers upon national commerce, without tracing its affinity to those bold and beneficial amendments, which were effected in the Tariff in the years 1842 and 1846. If it be not the completion of the reforms, which the master mind of Sir Robert Peel then accomplished and of the further reforms, which he foreshadowed to succeeding statesmen, it proceeds upon the enlightened fiscal policy of that minister, and leaves comparatively little to be effected by his successors.

Before the passing of the Act, the 5 & 6 Vic. c. 47, the list of articles subject to Customs' duties amounted to not less than twelve hundred. By that Act the duties on seven hundred and fifty of those articles were con-

siderably reduced, and, whilst the reduction caused an increased consumption, it imparted, as was sagaciously foreseen at the time, a countervailing force and elasticity to the public revenue. The general principles upon which the Tariff of 1842 proceeded, are recorded in the Parliamentary documents, by which Sir Robert Peel illustrated his propositions.

They were, "1st. the removal of prohibitions and relaxation of prohibitory duties; 2nd. reduction of duties upon raw materials for manufacture to very low duties, in some cases nominal; in none, exceeding 5 per cent. 3rd. the reduction of duties upon articles partially manufactured to a point not exceeding 12 per cent. 4th. reduction of duties upon manufactured articles to a point not exceeding 20 per cent., and 5th. the reduction of duties upon colonial produce." The act, in accordance with these principles, reduced the duties on the number of articles mentioned, to a nominal amount, but the time had not yet arrived for propounding the policy of absolute repeal. It was not, however, distant. The successes of the first experiment produced their anticipated fruits. Prejudice yielded to the conviction wrought in the public mind by facts; and the hand, that in 1842, gave the first blow to restriction, repeated the assault with re-assured vigour in 1846. The act of 1842 contained the germ of abolition to which that of 1845⁽¹⁾ gave effect and maturity. By this the duties were repealed on no less than four hundred and fifty different articles, as to some, imme-

(¹) 8 and 9 Vict. cap. 12.

diately on the passing of the statute; as to others, at more deferred periods; and as to another class, new, and in most cases, more moderate duties, were substituted for the former ones. The stride of free-trade legislation in the ensuing year, was in the same direction, and, under the auspicious guidance of the statesman by whom its earliest movements had been directed. The duties on the importation of foreign corn were reduced to a nominal figure by the Act of 1846,⁽¹⁾ a measure which more than any other, decided, for the future, the policy of the national commerce. But there were other signalizing measures of the legislature to make the year 1846 memorable. By the Tariff Act of that year,⁽²⁾ the duties on no fewer than forty-six articles including oxen, horses, sheep, &c., were repealed, and those on silks, butter, cheese and nearly one hundred other commodities subjected to considerable reductions. In the same year also the principle of free trade was recognized by another statute⁽³⁾ which abolished the distinction between free and slave grown sugar and provided for the progressive equalization of the duties on British and foreign sugars, to take effect on the 5th July, 1851. To Lord John Russell's government is due the credit of this further step in the progress of free trade. By another Act of 1848,⁽⁴⁾ the period for assimilation was extended to 1854, the duties, however, being further reduced.

The value of these concessions cannot be too highly

(1) 9 & 10 Vict. c. 22.

(2) 9 & 10 Vict. c. 63.

(3) 9 & 10 Vict. c. 23.

(4) 11 & 12 Vict. c. 97.

estimated; but they did not exhaust all that was susceptible of amendment in the Tariff. There was one article in particular, charged with a duty, wholly disproportioned to its wholesale price, the article tea, which from its universal consumption, has long since ceased to be a luxury, and has become one of the indispensable necessities of life. The case as against the continuance of an impost, which fell oppressively upon the poorer classes of society, was earnestly stated in a memorial from the East India Association of Glasgow to Sir Robert Peel. "The duty," said those gentlemen, "charged by our Tariff on tea is equal to £200 per cent. on the shipping cost, viz., 2s. 1d. per lb. on an article which on an average costs on board about 1s. and while a Tariff is negotiating in China for the admission of our productions, it is but reasonable to expect that the Chinese will keep in view the monstrous, duty charged in England on their staple. This charge falls chiefly on the poor, who are the largest consumers, and it falls the more heavily because they use the low priced teas." In a further memorial to the Right Honourable Henry Goulburn, the association pointed to what they considered a satisfactory arrangement. They stated it, as their opinion, that "if the duty were reduced to one shilling per lb. it would materially increase the consumption and thereby help to redeem the proportion of revenue given up, which effect would be further aided by the increased consumption of sugar; inasmuch as four or five pounds of that article are used with every pound of tea." The opinions here

conveyed forced their way into minds the most fastidiously conservative of this prolific source of revenue.

In other respects, the Tariff, as it stood last year, demanded revision. Its defects, in respect to the duties chargeable on various necessities of life, will be best explained by an extract from the financial statement of the Chancellor of the Exchequer, on the 14th of April 1853; a statement not more distinguished for the soundness and depth of its financial expositions, than for its truth and fidelity to the principles of the school inaugurated by Sir Robert Peel. "In proceeding," said the Right Honourable gentleman, "to consider more generally the state of our tariff, we have been desirous to carry into effect something like a new revision of taxes, and to apply to it, wherever our means would permit, the following general rules; first, to abolish altogether the duties which are unproductive, except in cases, where there may be some special reason to retain them on account of their relation to other articles; and in the next place to abolish, as far as considerations of revenue will permit, duties on articles of manufacture, except such as are in the last stage, as finished articles, and are commonly connected with hand labour; in regard to which cases, we have thought it more prudent and proper to proceed in the mode not of abolition, but reduction; in these cases we have endeavoured to fix the duties in such a way, that as a general rule, they should not stand, as to any class of goods, higher than 10 per cent. on their value. * * * We desire further, whenever it can be done, to take the mode of substituting rated duties

for duties *ad valorem*, and where there are at present differential duties in favour of British possessions, to merge those differential duties altogether, by lowering the foreign article to the level of the colonial, we have not thought it would be advisable, in any case, to raise the duty on the colonial article. Lastly, we have been desirous to lower the duties that press on foreign articles of food which enter largely, if not into the necessities of life, at any rate, into what may be called the luxuries and comforts of the mass of the people.”⁽¹⁾

The provisions for reducing the duties on tea constitute the most distinguishing feature of the new Tariff. In regard to these, the existing government and that which preceded it entertained concurrent opinions, both adopting the conclusion, that it would be inexpedient to reduce the duty, *per saltum*, to one shilling, and that a reduction at progressive intervals would be preferable. As to the other articles referred to by the Chancellor of the Exchequer, the Tariff Act will be found to carry out, to their fullest extent, his beneficial and enlightened propositions—the number of articles dutiable and free enumerated in it, being 474, those subject to duty being reduced to the small number of 147. The substitution of rated for *ad valorem* duties is an amendment more grateful, if possible, to the Customs Department, than to the most strenuous advocates of the change throughout the commercial world. It removes a fruitful cause of controversy between the merchant and the officer.

⁽¹⁾ Mr. Gladstone's speech. Hans. Par. Deb., vol. cxxv. p. 1415.

From the foregoing review of the provisions of the new statute, and of the extensive changes recently effected in the Tariff, it will be seen, that they exclusively apply to the revenue business of the Customs, and that the introduction of any matter distinct from revenue has been avoided. It may not, however, be uninteresting to pause over a few of the more important of the duties, which they have imposed upon the Commissioners of Customs. Among others they are charged, not only (as their paramount function) with the collection of a branch of the Revenue averaging more than twenty-two millions per annum, accruing upon a great variety of foreign produce and manufacture, and chargeable with various rates of duty, ascertainable by different standards, such as weight, measure, number, and value; but also with properly securing the duties on the goods deposited in the bonded warehouses without payment thereof, which are ultimately exported, and which average about one-fifth of the whole imports. The Board are also entrusted with the entire management of the export and coasting trade of the country. To execute these trusts with the efficiency and vigilance demanded by their importance, a vast local, as well as central machinery, is indispensable. Hence, the supervision and active interference of the Board extend not only over the great port of the Metropolis, but every port of the United Kingdom, of which there are no less than one hundred and twenty-two. At each, there exists a branch of the parent establishment, commensurate with the commercial exigencies of the locality, but necessarily

subject, with reference to the general working of the system, to the control of the Board, without which that uniformity of practice, which is essential to the proper conduct of the department, could not be secured. The number of Customs' officers serving in the United Kingdom alone approaches six thousand, exclusive of the Coast Guard force, engaged in the protection of the Revenue. The latter force amounts to about the same number, distributed, in detachments afloat and on shore, around the coasts of the country. To the responsibility of upholding the order and efficiency of this service may be added that of maintaining and provisioning fifty-one cruisers and other vessels. A further illustration of the onerous duties thrown upon the department is supplied by the fact, that the average number of ships, which discharge their cargoes inwards in the course of a single year, amounts to about thirty-five thousand, whilst the number of duty paid entries passed at the Custom House in London alone, averages about half-a-million per annum. The daily aggregate amounts, accruing from hour to hour from the duties paid in small sums, involve about one hundred thousand collective payments yearly into the Bank of England, and very extensive operations on the monies so deposited. These are conducted on such a system that few mercantile firms can show a clearer balance sheet, at any moment, than the Receiver General of Customs.

These facts, however, but very faintly indicate the vast magnitude of the mercantile operations involved in the duties above adverted to; nor is it possible to exhibit the

relative *quantities* of the merchandize brought under the surveillance of the officers of Customs to be dealt with for revenue, statistical, or other purposes, and, at the same time, the expansiveness of the commerce of these islands, without resorting to the mode of illustration, which has now been usually adopted for more than a century and a half. It may not be generally known, that so far back as the year 1696 a particular rate was attached to each article of merchandise, by which it should thereafter be valued on importation or exportation. These rates have been continued to the present day, in order that a test of the relative quantities of such goods might be applied at any time and for any period. They are known by the denomination "Official Values." They were doubtless as nearly accurate as possible at the time they were established, but, from the great reduction in the value of all kinds of produce and manufacture, they now form no criterion of the real value of the imports or exports of foreign or colonial merchandise. Nor does any such actual criterion exist, although fortunately with respect to British produce and manufactures, records have been kept of the real as well as the official value. From these, it appears that in the year 1841,⁽¹⁾ the official value of foreign goods imported was £64,444,268; this amount has, however, increased, according to the returns of 1853, to £123,136,135, or nearly double that of 1841; and, taking the same dates of comparison, the exports of

(¹) This was the year before Sir Robert Peel commenced the task of commercial reform, and in which the imports and exports attained the highest point prior to that memorable change.

foreign and colonial produce have increased in about the same proportion, viz., from £14,723,373 to £27,767,733, while those of British manufactures have risen from £102,179,514 to the enormous sum of £214,360,489.⁽¹⁾

The returns of shipping exhibit an equally significant result as to that interest. The year 1853 shows an increase over 1841 of no less than 4,290,730 tons in foreign going vessels entering inwards, their total tonnage having been 4,652,376 tons in 1841 against 8,943,106 tons in 1853; and of 4,680,933 tons in such vessels clearing outwards, their total tonnage having been 4,766,171 tons in 1841, and 9,447,104 tons in 1853. The coasting trade also has shared in the general increase notwithstanding the powerful and growing competition of railroads. The tonnage of vessels so employed inwards has risen from 10,869,071 tons in 1841 to 12,820,745 tons in 1853; and outwards from 11,650,252 tons in 1841 to 13,493,804 tons in 1853; the increase being 1,950,674 tons, and 1,843,552 tons respectively.

The labour imposed on the department of Customs, as connected with the subject of commerce and shipping is not only immense, but continually increasing. A wide range of additional duty is delegated to the Customs, essentially distinct from the collection and securing of the revenue, and other matters to which allusion has been made. Statesmen and legislators have from time

⁽¹⁾ The declared value is £98,983,781, being an increase in 1853 over 1841 of no less than £37,299,168.

to time been penetrating enough to discover and prompt enough to determine, that the Customs' service was best adapted to perform a multiplicity of administrative duties, some kindred to the obligations, which officially attach to it, others, bearing a less immediate relation and many altogether different. Hence, and especially in the maritime parts of the United Kingdom, the Customs' officers have been required, sometimes to co-operate in the administration, and at others, to be the exclusive administrators, of laws, which could not have been carried into effect by a distinct government agency without great expense.⁽¹⁾ The Ship Registry Act may be cited in illustration of the disposition of the state to make every possible use of the officers of Customs. Nor can the policy of its preference of those officers, as the most competent to superintend the working of the numerous and complicated provisions of that Act, be called into question. The Custom-house supplies a convenient staff of officers for the registry of ships and the entry of the bills of sale, transfers, mortgages, assignments and other instruments, affecting the property in British vessels, and a safe and commodious depository for the preservation of the records, which form so important an element in the title to shipping. The Collectors, at the various ports, are considered, from local circumstances the best fitted for the duties of registration, in the absence of specially appointed registrars. Not only policy, therefore, but economy, has dictated the propriety of charging this

(1) *Vide* as to this, *Smith's Wealth of Nations*, v. 3, p. 393.

duty upon the Customs. These officers, already stationed at the various ports, can undertake their share in its performance at comparatively little additional expense, and thus save the necessity of a separate establishment. Nor is this addition of duty as simple as may be generally imagined. The provisions of the Registry Act give rise to a multiplicity of intricate questions, involving the title to ships, the derivative interests of owners, whether accruing by bill of sale, bequest or succession, controversies as to priority of incumbrance, mortgages, rights of infants and married women, and a multitude of other analogous matters of a legal character, arising daily at the several ports, and forwarded by the local officers to the central Board for consideration and decision. With respect to the title of shipping viewed in relation to its dependence upon this branch of Customs' duty, a remarkable fact remains to be noticed. Whatever may be the opinion of conveyancers as to the perplexity attendant on the deduction of title to real estate in this part of the kingdom, it may be fearlessly averred, that the origin and history of every British registered vessel in existence can, by the machinery of the Customs, be traced through every stage of ownership, no matter how numerous the shares in her property, or how frequently the subject of transfer, from the first moment that she rode on the bosom of her native element to that which saw her a disjointed wreck.

In further illustration of the readiness of the Legislature to devolve on the Customs the execution of duties

which bear no affinity to the subject of revenue, "The Mercantile Marine Act, 1850," "The Passengers' Act," 15 & 16 Vic. cap. 44, and the "Steam Navigation Act," 14 & 15 Vic. cap. 79, may be mentioned. By these the task of examining into the seaworthiness of ships, and the comfort of passengers, has been assigned to the Customs. The policy of such assignment may be vindicated by the same arguments, on the same grounds of convenience and the same regard to economy, which have turned the Commissioners and Collectors of Customs into guardians and registrars of title to shipping. In many ports the business of emigration, even in the present flow of the human tide to distant lands, would not bear the expense of a special Emigration Officer's salary; and, though a plea might be advanced against the policy of distracting the mind of the officer of Customs from his ordinary avocations, it must be confessed, that, where no other superintendent can be procured, without considerable cost, to carry into effect the important objects referred to, the officer of Customs may be reasonably required to afford his best services. In discharging this duty he not only satisfies the requisition of the State, but responds to the most benevolent dictates of humanity.

Again, the republic of letters beholds in the officer of Customs an ever-vigilant sentinel to guard for authors the varied treasures of genius. But for him, of what avail would be the most stringent enactments for the protection of copyright? With what facility and impunity might not the foreign pirate import the plunder of

mind, if the code of enactments from the 5th and 6th, down to the 15th & 16th Vic. did not secure to literature the protective services of the officer of Customs! Yet this grateful aid to the rights of British authorship has no sympathy or connection with the collection of the income of the Crown.

Let it suffice to allude briefly to some other enactments, which impose onerous duties on the department. Upon the officers of Customs devolves the charge of carrying out the provisions of the acts which regulate the admission of aliens into the United Kingdom, and their departure from our shores;—the enforcement of the laws and regulations relating to quarantine;—those which impose restraints on the equipment of vessels, or the enlistment of recruits, in this country, under hostile intentions towards foreign states in amity with our own;—the terms and conditions of international conventions, by which the rights of fishery, on the coast of England and France, are adjusted;—the requisitions of the various acts, which relate to the pilotage of ships to and from our ports, as well as those, which, in case of peril or distress, demand the active co-operation of the officers of Customs;—the statutes and orders, which provide for the supply of statistical information, as to our imports and exports, and which are transmitted periodically to the Board of Trade for publication;—and lastly, the various legal provisions, which require the co-operation of the Customs in the prevention of frauds upon the Inland Revenue. Taking into consideration the extent and variety of duties thus imposed on the Customs'

department, superadded to the multifarious business, which legitimately falls within its province, and which of late years has so wonderfully increased, the author may, it is hoped, be excused for adverting to the fact, that the cost of the service, instead of being proportionately augmented, remains nearly the same, and, making a legitimate abatement for the expences attendant on the performance of extraneous functions, it may be stated that the Customs' revenue, *per se*, is now collected at an average cost of about 8 per cent.

Having thus reviewed the rise and progress of Customs' legislation, and endeavoured to convey a general impression of the existing law, and of the duties, imposed on the Customs' department, not only by that law, as a distinct revenue code, but by a variety of other different enactments, it can scarcely be deemed irrelevant, especially as a part of these introductory remarks, to take a retrospect of the infancy and growth of the fiscal branch of the subject. Down to a very recent period, however, the statute-book, though complicated and ponderous in matters relating to the duties themselves, leaves us in comparative ignorance of the mode and instruments of collection. The practice of farming the Customs appears to have prevailed so early as the year 1282.⁽¹⁾ Their collection was frequently entrusted to foreign merchants, either as an accountable trust or for a stipulated rent. Boricini, Guidicon and Company, of Lucca, accounted to the Exchequer for the proceeds of the new Customs on

(1) 1 Macpher. An. of Com. 436.

wool, wool-fels, and hides from Easter, 1281, to Easter, 1282. Many other instances might be adduced to show the frequency with which the collection was entrusted to the stewardship of foreigners. They were successively farmed by the *Remberini*, the *Bardi*, and the *Spini* of Florence.⁽¹⁾

The rents, of course, varied according to the prosperity or decline of the commerce of the country. In 1329 the whole of the old and new Customs of all England were farmed to the great Florentine firm of the Bardi for a rent of £20 per day, which (not including Sundays) amounted to the inconsiderable sum of £6,260 a year. The following year the rent was raised to 1,000 marks each month, or £8,000 a year. There was another mode, not unfrequently adopted, of obtaining advances of money on the security of the Customs' duties. Foreign merchants were allowed, as a stipulated method of receiving instalments on the sums, which they lent to the sovereign, to deduct the duties chargeable on their imported merchandize, the Italians being the accommodating parties in most of these undignified transactions. Thus, in 1403, King Henry borrowed 1,000 marks from ten merchants of Genoa, and, for payment, he permitted them to retain the duties on goods to be imported, &c. Five merchants of Florence lent him money on the same conditions⁽²⁾. The reign of Elizabeth herself did not

(1) Maddox Hist. of the Excheq., c. 23. Rym Fœd. V. 2, p. 311—682,—705.

(2) Rot. pat. sec. 4 Edw. 3 m. 7; tertia 5 Edw. 3 m. 4 Fœd. V. 8, p. 358, 359, 383. In 1421 the aggregate salaries of the officers of Customs at

escape the imputation of continuing a practice, which compromised the dignity and emoluments of the British Crown and perilled the best interests of commerce. It appears that Sir Thomas Smith rented the Customs for some years at an annual sum of £14,000, ⁽¹⁾ but afterwards farmed them at the yearly sum of £42,000, and shortly afterwards at £50,000, an advance which the commercial historian shrewdly mentions, as indicating one of the prominent improvements of that reign. In 1613 the produce of the Customs reached the respectable sum of £109,572 18s. 4d., and in 1641 they were estimated at £500,000.

During the forty subsequent years the average increase, according to D'Avenant, who was Inspector-General of Customs, and consequently a good authority, was £500,000. But, an important reform was introduced within this interval. When the interests of commerce and revenue came to be more clearly understood, the mischiefs of farming out the Customs could not fail to be detected. Accordingly, in 1671, the management was transferred from the "farmers" to a Board of Commissioners. The policy of this change became soon apparent. During the reign of William the Third and Anne the Customs revenue rose so considerably, that the nett payments into the Exchequer in 1709 amounted to £1,353,483,

the port of London amounted to the small sum of £547, and of those at the outports to but £247 3s. 4d.

⁽¹⁾ Authors greatly differ with regard to the sum which Smith originally paid. Philips (*Restauranda*, p. 34) says, that they were raised from 13,000 first, to 42,000, and afterwards to 50,000. Camden, p. 440, instead of 13,000, makes it 14,000.

in 1726 to £1,600,000, and in 1760 to £1,969,933 17s. 9d. In 1763 to nearly £2,000,000; in 1792 to £4,407,000; in 1815 to £11,360,000; and in 1853 to above TWENTY-TWO MILLIONS AND A HALF STERLING.

It would ill accord with the design of these introductory remarks to dilate upon the policy of the change, which substituted a Board of Commissioners instead of the old management by farmers. The interest of the farmer was essentially transient and personal. What concern could he have for the triumphs of commerce, as constituting the main foundation of the country's wealth and influence? He paid or incurred the liability to pay, a stipulated rent; and the privilege, which he gained by his leaseholdship, opened to his avarice a boundless opportunity of rapine. Commerce faltered and groaned beneath the oppressiveness of his exactions; and the more ephemeral his tenure of the spoil, the more greedy was the appetite with which he devoured it. It will be found by those who investigate the history of Customs' farming, that this is a faint and unexaggerated picture of its evils. The trade of the country had to struggle against them for a period of three centuries, and, but for the removal of them, it may be confidently asserted, that the kingdom would never have attained its present commercial supremacy. But, though the axe was wisely laid to the obdurate root of so mischievous a system, and the Crown commendably availed itself of a stewardship by Commission, the substituted machinery was at the onset far from perfect. In principle alone it was not defective. In application and practical working it was largely imbued with the

abuses, which then beset most of our public departments. If the ancient farmers were unprincipled exactors, the stewards who succeeded them (and this observation applies to a period so recent as 1792,) were "indolent" sinecurists, and bore no resemblance to the laborious Commissioner of the present times.⁽¹⁾

(1) The Commissioners of 1792 are thus described by a late Chairman of the Board, in a letter addressed by that gentleman to the Right Hon. H. Goulbourn :—

"As regards the Department of Customs in 1792, the principal officers engaged in the receipt of the duties in the port of London were patent officers.

"The first Earl of Liverpool was Collector Inwards.

"The late Duke of Manchester Collector Outwards.

"The Duke of Newcastle, and afterwards the Earl of Guildford, Comptroller Inwards and Outwards.

"Lord Stowell Surveyor of Subsidies and Petty Customs.

"These noblemen took no part in the official duties, but merely exercised the right of appointing deputies and clerks.

"Both principals and deputies were remunerated by fees. The patentees received the fees denominated patent, and the deputies retained the fees called the fees of usage for their own use. In addition to these fees both deputies and clerks received fees for dispatch.

"The same system prevailed throughout the whole department. The salaries of the officers were nominal, and the principal proportion of all official income was derived from fees. These fees were constantly varying both in rate and amount, and formed a continual source of dispute and complaint between the merchant and the officer.

"This system (after having been repeatedly objected to by various Commissions of Enquiry, and finally by the Committee of Finance, in 1797) was put an end to in the year 1812 by the Act 51 Geo. III., cap. 71, by which all patent offices and fees were abolished, and compensation allowances granted to the patent officers, and fixed salaries established.

"The additional salaries granted under this arrangement amounted to about £200,000, and the temporary compensation allowances to about £40,000 per annum.

"The fees abolished, and from which the public were relieved, amounted to about £160,000 per annum.

"In addition to the amount of fees from which the public were relieved,

It may not become a person in the author's position to institute comparisons between the present and the former administrators of the Customs, nor to speculate on the constitution of the Board itself, inasmuch as these are matters rather of policy than of law. Still less may it become the Solicitor of the Board to offer any opinion in their favour as an executive body, however strongly he may be impressed with the integrity of their conduct and the efficiency of their services. But to suppress the meed of approbation, which the Government recently pronounced on the department, would be, to say the least, a mistaken, if not a reprehensible, delicacy.

“There has been an extraordinary pressure of business during the past year, the ships entering the port (of London) having increased to 11,807 from 9,964 in 1852, and the arrivals in December having been nearly fifty per cent. greater than in the same month of the preceding year. Yet, notwithstanding this sudden increase, my Lords are satisfied from the careful inquiry they have instituted, that by the vigilance and energy of the whole establishment of

various allowances made by the Crown to officers for the quarantine, coal, poundage, poundage on seizures, and many other incidental allowances which did not appear on the establishment were also abolished, and the salaries of every officer placed at one view upon the establishment.

The effect of these salutary measures has been to give a great apparent increase to officers' salaries since 1791; and, upon a mere comparison of the establishment of 1792 with 1830, without the above explanation, it would appear that the pay of the officers had been most materially augmented, whereas, in point of fact, the difference is in the mode of payment; and the incomes of the officers at the present period (as compared with 1792) are in general less; and, consequently, the public are less taxed for the performance of the same duty *now* than in 1792.

the Customs the business of the port has never been more perfectly done. And, while my Lords will always consider it as one of their highest duties carefully to sift every complaint or charge, coming from whatever quarter it may, against the administration of any department under their control, yet, they will also feel it to be no less their duty to support with their whole weight and influence, a body of deserving public officers, who may become, from any cause whatever, the object of unfounded complaints.”⁽¹⁾

The contrast, which this testimonial affords to the Treasury reproof of 1814, recently resuscitated for purposes scarcely worth adverting to, cannot fail to be gratifying to every ingenuous mind, and particularly to the great commercial portion of the public, “*Nihil me clamor iste commovet, sed consolatur, cum indicat esse quosdam cives imperitos, sed non multos.*”⁽²⁾ But, to revert to the immediate subject of these pages, when the author finds, that an honest endeavour to consolidate and simplify the Customs’ Laws, has not only been recognised with favour, but with no small share of praise; when a unanimous legislature and an applauding general opinion have honoured the work with approval, he would be arrogating to himself more than his labours or his intentions warrant, if he omitted humbly to bear testimony to the fact, that, if there be merit in the new Act, and, in comparison with the former state of the law, it be found a substantive and satisfactory amend-

(1) See copy of correspondence with the Treasury in relation to the insufficiency of Custom House officers in the port of London, ordered by the House of Commons to be printed.—13th February, 1864.

(2) CICERO, *Orat. pro. C. Rab.*

ment, the Commissioners of Customs deserve a large proportion of the credit, as they have suggested most of the material reforms, that have been effected, and favoured with the heartiest approbation every proposition submitted to them in the nature of amendment. The Commissioners had, long before the passing of the Act, anticipated by their Rules and Orders very many of the ameliorations, which have now received the more significant stamp of Parliamentary sanction. The practice at the Customs had in numerous instances anticipated the formal provisions of the Law. With respect to the Act itself, one merit may, it is hoped, be claimed for it. It is succinct and intelligible. If there be defects (and the author does not presume to suppose, that there are not) they can now, at least, be easily detected; and the patency of the blemish will facilitate correction. Far be it from him to flatter himself with the idea, that the task of legislation should end with what has been already done; though he would respectfully deprecate premature interference with the law, as now consolidated, until it shall have undergone the test of practical experience. "It is most certain," says Lord Chief Justice Hale, "that when all the wisdom, and prudence, and forecast in the world is used, all human things will still be imperfect. There is no wisdom or counsel perfect, but the wisdom and counsel of God, who hath infinite knowledge to foresee all possible emergencies."⁽¹⁾ There can be no complete nor final legislation for human concerns

(¹) Tract on the Amendment of the Laws.—*Hargrave's Law Tracts*.

of any kind. The condition of society is one of interminable variation; and laws must grow with, and be adapted to, its progressive expansion and change. The present commercial greatness of the British Empire would seem to him who first "paid toll at Billingsgate" a stupendous creation of fancy; and the history of the past has been read with no profit, and the mutual relations of cause and effect weighed with little foresight, if they do not justify the anticipation, that the future has in store for these favoured islands the realization of a still more gorgeous dream. Whatever in theory may have been the virtue of the economical principles of whose development those successes are the consequence, their practical triumph is attested by every day's additional experience; and however strong the faith of the most powerful and enlightened states of Europe has been in principles of a contrary tendency, it has been compelled to waver in the face of our scarcely appreciable prosperity. Belgium has caught the inspiration, which may reanimate the fortunes of her ancient seats of commerce. France has begun to distrust her long cherished creed of protection, and England will have placed the Sovereign of that illustrious land under a deep obligation, indeed, if while sojourning upon our free soil, and studying with the eye of a statesman and philosopher, the genius of our institutions, his mind received impressions in favour of unfettered trade, which may now redound to an Empire's greatness; whilst an identity of commercial action cannot fail to bind more closely two countries, between which there already auspiciously exist so many

motives to union. Peace has been announced as the guiding principle of his sovereignty, but peace, internal or external, is after all, but a conditional blessing. If the arts of peace be not cultivated, if opportunities of diffusing education, improving morals, amending law, purifying justice, exalting religion, and disenthraling commerce, be disregarded, it is not that repose which teems with benedictions to mankind, but, a lethargy, scarcely less noxious, than the calamity of war.⁽¹⁾ The peace of this country has been turned into a mighty engine of national aggrandizement. It is valued not more, because it has increased our commerce and multiplied our sources of enjoyment, than, because it has incorporated us more closely with the rest of the human family. This condition of existence may be interrupted, and our trade may possibly receive some rude shocks in the conflict, whose portentous clouds already overcast the horizon, and menace the composure, of Europe; but, whatever vicissitudes may occur in the impending struggle, there is every ground for the assurance, that the commerce of the British Empire will continue to be governed by those enlightened principles, to which it is indebted for its present ascendancy;—and that it will, as it has ever done, constitute a main source of supply to the Sovereign, of that revenue by which the blessings of peace may be enhanced, or the burdens of war sustained and alleviated, “*census regius, anima reipublicæ firmamentum belli et ornamentum pacis.*”⁽²⁾

(1) Il n'y a que deux puissances dans le monde; le sabre et l'esprit. J'entends par l'esprit les institutions civiles et religieuses. A la longue le sabre est toujours battu par l'esprit.—NAPOLEON I.

(2) Co. Litt. 106, L. 2, sec. 153. 11 Rep. 91 (b).

COMMENTARY

UPON

THE "CUSTOMS CONSOLIDATION ACT, 1853."

CHAPTER I.

OBJECT OF THE ACT.

The scope and design of the Act are declared in the preamble, which recites the expediency of consolidating into one Act the several statutes, then in force, for the management and regulation of Customs, the prevention of smuggling, the encouragement of British shipping and navigation, the warehousing of goods, the granting of drawbacks and allowances of Customs, and the regulation of the trade of the British Possessions abroad and of the Isle of Man.

OFFICIAL MACHINERY.

The operative part of the Act commences by providing for the constitution of the official machinery of the Customs, enacting, that all appointments of officers shall be made by the Commissioners of the Treasury, or, under their authority, by the Commissioners of Customs; and the duties incident to every such appointment are to be performed under the control and direction of the latter. Sec. 1.

SALARIES AND SECURITIES OF OFFICERS.

The Commissioners of the Treasury, or, under their direction, of Customs, are to prescribe the remuneration to be paid to the officers, whether as periodical salaries or as pecuniary allowances, and may require each officer to give such security for his good conduct, as they may consider necessary. *Ib.*

TENURE OF OFFICE.

The term, for which every office shall be held, is made dependant upon the pleasure of the Commissioners of the Treasury or of Customs. *Ib.*

SALARIES PAYABLE FREE FROM PARLIAMENTARY DUTY; AND SUPERANNUATIONS UNASSIGNABLE.

Salaries are to be paid clear of any duty imposed by Act of Parliament, unless expressly charged thereon, and no superannuation allowance is to be assigned or disposed of by the grantee thereof, such assignment being declared void and incapable of enforcement at law or in equity.⁽¹⁾ *Ib.*

OCCASIONAL OFFICERS.

From the peculiar nature of the Customs service, the aid and co-operation of other persons, than the regularly appointed officers may not infrequently be required. To meet this exigency, it is

(1) This provision of the Act is directed against voluntary assignments by officers of their superannuation allowances, and constitutes a salutary restraint upon the improvident alienation of an income designed for their support on retirement from office. But, it does not go the length of providing, as the Excise Act, the 7 & 8 Geo. 4, c. 53 does, that allowances are not, previous to payment, to be seized in execution, a provision for whatever reason introduced into that Act, rendered now altogether superfluous by the 12th section of the 1 & 2 Vict. c. 110, which specifies the description of monies or securities which may be seized in execution, and within which description superannuation allowances do not fall.—See *Robinson v. Peace & Dowling*, p. 93.

provided, that every person employed on any such service (whether in pursuance of a previous order of the Commissioners of Customs, or sanctioned by the expression of their subsequent concurrence), shall be deemed the officer for such service; and the more thoroughly to identify the occasional officer or substitute with the officer whom, for the time being, he may represent, the acts of the person, thus temporarily engaged and the conduct of others in relation to him, are to be deemed of the same legal effect as if done by or in relation to the officer represented; and every Act required by law to be done at any particular place within any port, if done at any place within such port appointed by the Commissioners of Customs for such purpose, shall be deemed to be done at the particular place so required by law. Sec. 2.

EXISTING COMMISSIONS AND SECURITY BONDS.

All existing Commissions, deputations, and appointments, and all bonds or other securities for the good conduct of officers are continued in full force. *Ib.*

OFFICERS, &c., TAKING UNAUTHORISED REWARDS.

The taking by officers, clerks, or other persons employed in the Customs service, of any fees or perquisites, whether pecuniary or otherwise, and however trivial, for any act of commission, omission, or default, in relation to such employment, is punishable, on proof of the offence, by dismissal from office.⁽¹⁾ Sec. 3.

DECLARATION ON APPOINTMENT TO OFFICE.

A declaration is required to be made by every officer on his admission to office; the form of which is set out in the Act. Sec. 4.

HOURS OF OFFICIAL ATTENDANCE.

Provision being made for supplying the service with every description of necessary officer, the next subject in order is that

(1) As a further safeguard to the integrity of the service a subsequent part of the Act imposes a penalty of £200 upon any person giving or offering any bribe to an officer as an inducement to fraud, negligence, or connivance, and £500 on the officer receiving it. Sec. 262.

which relates to the hours of official attendance, which, as under the former law, may be appointed by warrant of the Commissioners of the Treasury. ⁽¹⁾ Every officer of Customs, from the Chairman of the Board down to the humblest servant of the department, is bound to conform to the regulations of the Treasury, as to hours of attendance; the Commissioners of Customs, as a natural incident to management, having the power of appointing the times, during such hours, at which any particular parts of the duties of the officers may be performed. Sec 5.

HOLIDAYS.

Christmas Day, Good Friday, and any day appointed to be kept as a holiday by royal proclamation, or, in Scotland by authority of the General Assembly, and any day appointed for the celebration of the nativity of the reigning Sovereign, are the only days of suspension from business, which, in this commercial country, it has been deemed expedient to concede to those engaged in the service of the Customs. Those days are required to be kept as public holidays, by the officers and servants of the dock companies throughout the United Kingdom. Sec. 6.

COMMISSIONERS, &c., NOT LIABLE TO SERVE IN PAROCHIAL OR OTHER PUBLIC OFFICES.

The liability of the Commissioners and other officers of Customs to service in the militia, on juries, or in any corporate, parochial, or other public office, being incompatible with the due performance of their proper duties, they are specially exempted from such respective services. Sec. 7.

⁽¹⁾ This provision has reference to the hours of general attendance; the Act, however, prescribes certain hours within which particular operations, involving of necessity the attendance of officers, may be performed; for instance, by Sec. 49, the hours prescribed for the unshipment of goods are from eight A.M. to four P.M., between the 1st of March and the 1st of November, and from nine A.M. to four P.M. between the 1st of November, and the 1st of March, Sundays and public holidays excepted: and it is competent to the Board of Customs to extend those hours where and when necessary:—a power which they have extensively exercised.

ORDERS OF COMMISSIONERS.

Orders or other writings, requiring the signature of the Commissioners of Customs, need not be signed by more than one of them, except where the law expressly requires more; and orders or writings, requiring the signatures or signatures and seals of the Commissioners, are deemed to be duly executed if attested by the hands or hands and seals of two or more of them. All orders and regulations made by the Commissioners under any of the statutes repealed by the present Act are confirmed until altered, rescinded, or replaced by others⁽¹⁾; and all acts done in pursuance of such orders are declared valid. Sec. 8.

APPOINTMENT OF PORTS, QUAYS, AND STATIONS.

The power to appoint ports, quays, landing and boarding stations is an essential incident to the collection of the Customs revenue.⁽²⁾ This power is, accordingly, conferred upon the Com-

(1) This confirmation of course extends only to such pre-existing orders as are not repugnant to the provisions of the present law, which, wherever it is at variance with the former law, and any orders or regulations made in pursuance thereof, is paramount, and the latter remark is equally applicable to orders of the Treasury.

(2) The appointment of ports, quays, &c., was formerly a rather formidable and somewhat expensive operation. No such appointment could be made except through the intervention of Her Majesty's Court of Exchequer to which it was necessary very frequently to have recourse. Whenever by the fluctuations of commerce a port, sub-port, or creek fell into disuse, and other localities were found more convenient for the interests of trade, or where some minor alteration even in an existing port or in the limits of a legal quay became necessary, the requisite change could not be effected, however desirable, without the interposition of the Court of Exchequer, from which, on formal application, a commission was issued appointing certain Commissioners to proceed to the *locus in quo*, and set out *pro forma* the limits of the port or quay, though of course already *de facto* decided upon from the ascertained necessities of the case giving rise to the application. The view and formal determination of the Commissioners having been completed, the metes and bounds were set forth in a certificate under their hands and annexed to the commission, which was returned to the Court, where both commission and certificate were duly enrolled; and thereupon the port, creek, or quay was thenceforth legally constituted. This antiquated practice continued in force until 1846, when

missioners of the Treasury by warrant to appoint ports or sub-ports throughout the United Kingdom or the Channel Islands, to declare their limits, and to appoint proper places within those limits to be legal quays for the lading and unlading of goods, and to declare the bounds of such quays. As a necessary incident, to the right to appoint, power is also given as occasion may require, to annul or vary the limits of such ports, sub-ports, havens, creeks, or quays, all existing appointments, and such as may from time to time be made, being confirmed until annulled or altered under the authority of the Act. Sec. 9.

BOARDING AND LANDING STATIONS, AND SUFFERANCE WHARVES.

The Commissioners of Customs may by order appoint stations for ships arriving at, or departing from, any port, to "*bring-to*," for the purpose of taking on board or of landing the officers of Customs⁽¹⁾, may appoint sufferance wharves for the lading and unlading of goods under such restrictions as they may approve, may direct at what part of any harbour, dock, or quay in any port ships laden with tobacco or any particular cargo shall moor or discharge such cargo, and the Commissioners of Customs, or the collector and comptroller of any port, may station officers on board any ship within the limits of any port in the United Kingdom.⁽²⁾ Sec. 13.

to avoid the needless trouble, expense, and delay attendant on such a circuitous proceeding, the Author suggested to the Commissioners of Customs the more expeditious and economical mode now in use, and with their concurrence the necessary clauses, of which the present are almost a verbatim reprint, were introduced into the Act of 9 and 10 Vict. cap. 102, secs. 13 to 18. The pecuniary saving alone consequent on this change was no less than £500 in the first two years after its adoption.

(¹) Under section 47 the master of every ship is required to bring-to at the appointed stations on arrival, and to receive on board and provide proper accommodation for officers, and by section 148 the master of every ship on departure is also required to bring-to for the landing of officers under penalty for default in either case of £20.

(²) By sections 48 (inwards), 146 (outwards), 158 (coastwise), 181 (B. P. in America), and 229, officers may board ships; and by the last named section, applicable to the United Kingdom and the Channel Islands, a penalty of £100 is imposed on any person obstructing them in their duty.

APPOINTMENT OF WAREHOUSING PORTS AND WAREHOUSES.

Equally essential for the purposes of the Customs' service, and indeed for the conveniences of commerce, is the power to appoint ports, which shall have the privilege of warehousing. This power is conferred on the Commissioners of the Treasury, who may, by warrant, make such appointments. But the direct and exclusive intervention of the Treasury goes no further than the appointment of the warehousing ports. The warehouses themselves—the disposition of the goods deposited in them—the description of merchandize, which may and may only be warehoused without payment of duty upon the first entry thereof, or for exportation only, in cases where the same may be prohibited to be imported for home use, are matters of internal regulation and detail, the management of which is necessarily vested in the Commissioners of Customs, subject, however, as, in the general course of their administration, to the directions of the Treasury. The Commissioners of Customs may also, subject to the same directions, appoint premises, as bonded sugar-houses, for the refining of sugar for removal to the Isle of Man or for exportation.⁽¹⁾ Sec. 10.

TOBACCO WAREHOUSES.

The power to appoint warehouses for the warehousing of tobacco, which was compulsory under the old law, is now permissive only.⁽²⁾ These may be provided by the Commissioners of Customs at the ports within which that article may be legally imported, and the expenses of such warehouses are to be defrayed out of the Customs duties; but the Commissioners may charge, for every package of tobacco therein warehoused, such rent as they see fit, not exceed-

(1) Removal to the Isle of Man and exportation are distinct things. *Vide* note (3) on sec. 107, p. 152.

(2) The imperative requirement of the old law was not only attended with inconvenience to the Crown, but the subject of occasional remonstrance from the trading community, hence it has been deemed expedient to make it discretionary.

ing the amount ⁽¹⁾ payable before the passing of the Act, such rent to go into the general fund of the Customs Revenue. *Ib.*

QUEEN'S WAREHOUSES.

The Commissioners of Customs may also fix the amount of rent payable in respect of goods deposited in any of the Queen's Warehouses; ⁽²⁾ the sums thereby realised being also appropriated as duties of Customs. *Ib.*

(1) The scale of rent payable on tobacco at the time of the passing of this Act and which is now constituted the maximum rule of charge is as follows:

IN LONDON.		£	s.	d.
For every hogshead,				
when deposited in the warehouse	. . . . .	0	2	0
when taken out of the warehouse, viz.:				
For any period not exceeding five years	. . . . .	0	2	0
Exceeding five, and not exceeding six years	. . . . .	0	6	0
And for every year, or part of a year, beyond that period		0	4	0
On each seron, bale, &c., not exceeding 150 lbs weight—				
for any period not exceeding five years	. . . . .	0	0	9
for every year, or part of a year, exceeding five years, and not exceeding six years	. . . . .	0	2	3
for every year, or part of a year, beyond six years	. . . . .	0	1	6
Cuttings of damaged tobacco in the warehouse beyond fourteen days after repacking, per package, per week	. . . . .	0	0	4½

AT THE OUTPORTS.

To commence at the expiration of eighteen months from the date of warehousing the same,

For every hogshead or other package, per week 0 0 1½

(2) The Queen's Warehouse, as contradistinguished from private establishments, denominated bonded warehouses, approved for the deposit of goods, for security of duties deferred or for exportation, is for the reception of goods the property of the Crown by forfeiture or otherwise, or under seizure or detention generally, and is synonymous with the term "Customs warehouse" as used in Secs. 224 and 225. The following goods may also be taken to the Queen's warehouse, viz. :—By sec. 52, foreign goods on board commissioned ships; by sec. 54, packages reported "contents unknown;" by sec. 64, goods landed by bill of sight, unless the entry be perfected within a given time, and by secs. 74 and 75, goods not landed from the import ship within fourteen days after arrival, and small parcels landed before the expiration of that time to clear the vessel.

As to rent on goods deposited in Queen's Warehouse, *vide* note on section 74, p. 129.

SECURITY IN RESPECT TO WAREHOUSES AND BONDED SUGAR HOUSES.

Consequent upon this privilege of warehousing, certain terms and conditions are imposed upon the warehousekeeper. The Commissioners of Customs may accordingly direct in what cases, and with what sureties, and to what amount security by bond shall be required in respect of any goods deposited in them or for security of the duties due on such goods; and they may also direct the nature and amount of the security to be given in respect of any bonded sugar house so approved of, or in respect of any sugar removed to it, or the due refinement or return of such sugar to the warehouse, its removal to the Isle of Man, or its exportation within such period, as they shall direct, or for security of the duties due on such sugar. *Ib.*

WAREHOUSEKEEPERS' BONDS.

A very material change having been effected by the new Act in the warehousing system, a few explanatory remarks may not be inappropriate. The object of the change is twofold.—1st. Uniformity of system, and, 2nd. Simplification and the relief of importers from the trouble and inconvenience of entering into a separate bond on each deposit in the warehouse. This alteration was, on the recommendation of the Select Committee of the House of Commons, adopted by the Government for the reasons assigned in the Treasury Minute of 14th April 1853. The importer being liable to the duties immediately on importation, it necessarily followed, that, when relieved, for his own convenience, from immediate payment, he should be called upon to give security for the duties deferred. The choice of warehouse, amongst those approved, rested with himself, and his separate bond was the only available one, until the introduction of the practice, which has gradually been engrafted on the warehousing system, of taking general security from the warehousekeeper. The latter practice, being merely permissive and not universally resorted to, a mixed system prevailed until the present law came into operation. Although by various provisions of the pre-existing statutes, the

warehousekeeper, as such, was to a certain extent responsible to the Crown with reference to the internal economy and management of his warehouse, that responsibility was of a general character, and it was held, that the original importer being primarily answerable for the duties on all goods warehoused by him, was the person properly liable to suit in the first instance, for any loss or deficiency therein, even when deposited in warehouses of general security. This liability continued, however long the goods might remain in bond, and however frequently they might have changed hands. Nor could an importer relieve himself from his own separate bond on transfer of the goods, unless the security of the purchaser, under a provision of the old law⁽¹⁾ was substituted in its stead.

That provision was seldom if ever resorted to ; nor is this extraordinary, when it is considered how frequent are the changes of property in bonded goods like other marketable commodities represented by paper, dock warrants, &c., transferable like scrip, and the subject of daily and hourly trading operations. To obviate these inconveniences, as far as practicable, it was suggested, that the importer should be relieved from giving bond, that the warehouse-keeper should give general security in respect of all goods deposited with him, and, in order to avoid long arrears, that all goods should be cleared, or rewarehoused and deficiencies accounted for, every five years, and also that the warehouse-keeper should be held directly responsible to the Crown for all deficiencies. This may, at first sight, savour of hardship on the warehouse-keeper but, in reality, it imposes on him no new obligation, so far as regards the safe custody of the goods and the consequences attendant on their loss, for although the Crown's claim for duties was primarily against the importer, the warehouse-keeper's liability to the latter was not cancelled. Therefore, by the present change in the law, without impairing the Crown's claim against the importer individually, in respect of any defalcation on his part, the warehouse-keeper merely becomes directly liable to the Crown for what, by a more circuitous course, he was formerly responsible

(1) 8 & 9 Vict. cap. 91, sec. 33.

through an intermediate party in the person of the importer or owner of the goods.

Another important object contemplated by this amendment was that of placing all warehouses, as far as practicable, on a footing of equality by the abolition of the distinction, which antecedently prevailed between warehouses generally, and those denominated warehouses of "*special security*." It is obvious, that, if a warehouse be not a safe depository for the security of goods and the duties due thereon, the privilege of warehousing ought not to be conceded to it; and, if secure, there can be no valid ground for the maintenance of arbitrary distinctions and exclusive privileges in favour of any particular class of warehouses, possessing no peculiar pretensions to security. The following sections have been introduced into the new Act to carry into effect these views.

GENERAL SECURITY.

The proprietor or occupier of every warehouse (excepting existing warehouses of special security, in respect of which security by bond has hitherto been dispensed with,) or some person on his behalf, is required to give security by bond with two sufficient sureties, or by two bonds, each with one sufficient surety, or such other security as the Commissioners of the Treasury or of Customs may approve, for the payment of the duties of importation on, or for the due exportation of, all such goods as shall at any time be warehoused therein; and no goods shall be warehoused in any such warehouse until such security shall have been given.⁽¹⁾ This

⁽¹⁾ Where general security has been given in respect of any warehouse prior to this Act, the bond survives and the privileges under it remain, subject of course to any variance of practice created by this Act, as, for instance, under the pre-existing law, the time limited for the clearance of goods was three years, unless further time should be given by the Treasury; but that period was extended indefinitely by the operation of a Treasury Order of 1831, and the requisite bonds were framed in conformity with that regulation, specifying the three years or such time as the Treasury should think proper to allow. By the Treasury Minute 14th of April, 1853, the period of five years was fixed, and that has been confirmed by the present law, which requires that all warehoused goods shall be cleared exported, or

permission to divide the responsibility of the security is entirely new, and has been adopted for the greater convenience of those parties, who may prefer giving two bonds in less amount each. Sec. 11.

**EXISTING APPOINTMENTS OF WAREHOUSES AND BONDS TO
CONTINUE IN FORCE.**

All existing approvals of warehouses and of bonded sugar houses, in respect of which security has been given, are to continue in force until revoked; and to relieve importers from the necessity of entering into separate bonds on every importation and deposit of goods, no bond is, in future, to be required from the importer; ⁽¹⁾ but, all existing bonds in respect of goods warehoused or entered to be warehoused are to continue in force, until discharged by the due delivery of the goods. Sec. 12. ⁽²⁾

REVOKING OR ALTERING TREASURY OR CUSTOMS' ORDERS.

The Commissioners of the Treasury or of the Customs may, by warrant or order, revoke, vary, or add to, any former warrant or order made by them respectively. Sec. 14.

rewarehoused, within such five years, or such further period after the warehousing or rewarehousing thereof, as the Treasury shall direct. Sec. 104. Express provision, therefore, having been made in the condition of the pre-existing bonds, to meet any alteration of time allowed by the Treasury, there would be no necessity for their renewal on that ground, even if the Act did not provide, as it does, that, all bonds entered into for the performance of any condition, order, or matter relative to the Customs, shall be valid, and may be proceeded upon, as if expressly given under the provisions of any Act relating to the Customs. Sec. 195. Under these circumstances, although the Board could insist upon renewed security under this Act, they have not deemed it expedient to put the warehousekeeper to that inconvenience.

⁽¹⁾ The line is here drawn between the existence of the general and special bonding systems: the latter ceasing with the adoption of the former under this Act: but as to goods warehoused prior to this Act under special bonds, the propriety of keeping those bonds alive, until the conditions are performed, is obvious.

⁽²⁾ For section 12, *vide* p. 78; to which, from analogy of subject, it has been transferred.

AGENTS FOR THE ENTRY AND CLEARANCE OF SHIPS, GOODS AND BAGGAGE.

The provisions of the former Regulation Act (8 & 9 Vic. c. 86) with respect to agents and the ports at which they may be licensed for the entry and clearance of ships, goods and baggage have been re-enacted by the new statute with some slight modifications. The Commissioners of the Treasury are empowered by warrant to declare in what ports agents may be licensed for the transaction of the foregoing business, with power to withdraw from such ports the system of agency, if they should deem it expedient. In every case in which the introduction of the practice is sanctioned, notice is to be given in the London Gazette, if the port be in England; the Dublin Gazette, if in Ireland; and in both, if the warrant include places in Great Britain and Ireland. But nothing in the provisions of this section is to affect the existing appointments of agents in the ports of London, Dublin, Dover, Folkestone, Southampton, and Shoreham, so long as the same shall remain unrevoked. Sec. 15.

LICENSES OF AGENTS.

The Commissioners of Customs are authorised, as heretofore, to grant licenses to agents in the ports so appointed, in such form, as they may deem proper, and to revoke the same for fraud or misconduct. In the latter event, a copy of the order of dismissal, stating the grounds thereof, is to be served upon the party, who may, if he see fit, appeal to the Board, under the provisions of the 33rd and 34th sections of the Act. But, in case of non-appeal, within three days after service of the order of dismissal, the revocation will stand confirmed. Sec. 16.

BONDS TO BE GIVEN BY AGENTS.

Every person to whom such license shall be granted (not being one of the sworn brokers of the city of London, and acting as such agent in the port of London) is to give bond, with one sufficient surety, in the sum of £1000 for the faithful and incorrupt conduct of himself and any clerk acting for him, both as regards the Customs

and *his employers*.⁽¹⁾ All existing licenses and bonds are to be in force until revoked. *Ib.*

AGENTS IN COPARTNERSHIP.

Any licensed agent, or agents, carrying on their business in copartnership may, with the approval of the Commissioners of Customs, appoint a clerk to transact business for him or them, the name, residence, and date of his appointment being, as a necessary condition to the validity of his appointment, endorsed on the license, and signed by him or them in the presence of the collector or comptroller of the port; all such appointments are to be recorded in a register to be kept at the Custom House: and clerks so appointed are not to act for any other than the person so appointing them. These latter appointments may be revoked by order of the Commissioners of Customs.⁽²⁾ *Ib.*

(1) To remove a somewhat prevalent, but erroneous, impression, it is proper to observe, that a Custom House agent is not an officer of Customs, and only acts for those, who, not having time or inclination to transact their own business with the Customs, prefer doing so through the instrumentality of another. In confirmation of this, may be cited the dictum of Lord Abinger in the case of the *Attorney General v. Anted*. "Licensed agents are not in any way authorised by the Customs to receive duties for them, nor are they, indeed, in any way servants of the Customs." 12 Mee. & W. p. 520. In favour of the system of licencing agents the chief arguments which suggest themselves are, 1st.—that they insure in cases, where the importer does not act in his own person, that he shall be represented by some known and accredited substitute, thus avoiding the inconvenience and danger to the Crown and the public, which might, in the packet ports, and in the metropolis accrue from permitting unknown and comparatively irresponsible persons to deal with the property of importers or consignees: And 2nd.—that it may serve to guard against fraud, or at all events, may secure the identity of the party, if fraud be committed. By the present law this provision is expressly extended to misconduct, or dishonesty, towards the employer, as well as the Crown, and, without reflecting in the slightest degree upon the many highly respectable persons, who act as agents, was suggested by the frequent occurrence of frauds, practised by less scrupulous individuals upon the merchants as well as the Crown, in some instances in direct violation of the instructions of the employer.

(2) By section 71, persons who are not licensed, and clerks not duly appointed, are interdicted from acting as agents in ports, where they are required to be licensed, nor are they allowed to act, whether licensed or not,

LIGHTERMEN'S LICENCES AND BONDS.

Upon a somewhat analogous principle the Commissioners of Customs are empowered to direct in what ports goods cleared for drawback or from the warehouse to be conveyed by water to be put on board any ship for exportation, or to be carried from any importing ship to be landed,⁽¹⁾ shall be so carried only by persons authorised for that purpose. As in the case of agents, persons so authorised must obtain a licence from the Commissioners of Customs, who are empowered to grant such licences, in such manner, and to such persons, as they may deem proper, and to revoke the same, when they shall see fit; as an indispensable condition, the persons, to whom such licences are granted, must give bond for faithful and incorrupt conduct. All licences subsisting at the commencement of the Act are placed upon the same footing, *i.e.* they are to continue in force "as if the same had been granted under the authority of this Act," and, as a necessary consequence, are revocable, in like manner. Sec. 17.

without the authority of the proprietor or consignee of the goods, under a penalty of £20, which for the same offence was under the repealed Act £100, and by sec. 72, the importer's authority may be demanded by the officers. But this does not extend to any merchant or importer, nor to any consignee of goods acting for himself, nor to any clerk or servant exclusively employed by any mercantile house.

(1) As officers are stationed on board ships on their arrival within the limits of a port, and goods are not landed without the Customs' authority and in presence of the officers, it has not been deemed necessary to superadd any statutory penalty on the carriage of goods by unlicensed lightermen from the importing ship to the place of landing, the effect of which would be to establish a species of monopoly without any attendant advantage. Any person may, therefore, be employed in the lightering of goods from the import ship to the shore. As analogous to this, see also note on land carriage p. 165. But, with reference to drawback and bonded goods for exportation, it is obvious, that, considerable danger must accrue from high duty goods being kept afloat, sometimes for many days, in lighters, or other small craft, waiting opportunities of shipment, and, therefore, the law expressly interdicts the removal of this class of goods by any other than licensed lightermen, under a penalty of £20. Sec. 127, pp. 164, 165.

COLLECTION OF CUSTOMS' DUTIES.

The section of the Act which next claims attention relates to the primary and paramount object for which this important branch of the public service was established. It imposes upon the Commissioners of Customs, for the time being, the vast and responsible task of managing the business of the Customs generally, of collecting and controlling the duties properly regarded as duties of Customs, together with all drawbacks and allowances, which, either now or hereafter, may be imposed by law. These they are required to ascertain, raise, levy, collect, pay, recover, allow and appropriate, under terms, every phrase of which has a distinct significant import, and enjoins a separate and onerous responsibility. After delegating to the Board their main commission, this and the two immediately succeeding sections proceed to lay down two or three fundamental rules. For example, it is provided, that all duties and drawbacks imposed or allowed according to any specified quantity or value shall apply in the same proportion to any greater or less quantity or value,⁽¹⁾ and be paid throughout the United Kingdom in British currency and according to imperial weights and measures. Sec. 18.

It is further provided, that, when, by any Act of Parliament, new duties of Customs shall be imposed in lieu of pre-existing ones, the old duties shall, unless otherwise specially provided, continue payable until the new ones shall become chargeable. So also, duties and arrears thereof, though computed under such former Act, whether secured by bond or otherwise, are to be levied, and all drawbacks or allowances paid or allowed, as if made payable under this or any other Act in force for the time being. Sec. 19.

So, in like manner, goods deposited in warehouses under the warehousing provisions of this or any other Act, without payment of the duty on the importation thereof; or which being imported

(1) This rule is furnished with reference to the Tariff for the sake of brevity, being applicable to cases where duties are chargeable *pro rata*, whether at value, or per weight, measure, or quantity; as for instance, where duty is charged on every £100 of the value of any goods, or on every bushel, cwt., tun, &c., the repetition in the Tariff of the words "and so in proportion for every fractional part, &c.," is obviated.

and on board any ship, shall be entered for home consumption, are to be chargeable with the then existing duties on the like sort of goods, unless where the legislature shall specially provide otherwise.⁽¹⁾ Sec. 20.

RECEIPT, PAYMENT, AND ACCOUNTS OF MONIES ARISING FROM DUTIES OF CUSTOMS.

The protection and collection of the Customs Revenue having been provided for, the proceeding next in importance is its transference to the Queen's Exchequer. This is done by the Receiver General of Customs. All monies bills, notes, and drafts received by that officer on account of the Customs Revenue in Great Britain are to be paid by him into the Bank of England, and all other monies, bills, notes, &c., resulting from Customs duties in Great Britain, which embrace the sums received by the various Collectors at the outports, &c., are also to be paid into the same Bank, and to be placed to an account there, intituled "The Account of Public Monies of the Receiver General of Customs," and all monies accruing from duties of Customs in Ireland are made payable into Her Majesty's Exchequer. Sec. 21.

ACCOUNTS TO BE KEPT IN ACCORDANCE WITH TREASURY REGULATIONS.

As it would be difficult to prescribe inflexible rules for the government of such immense pecuniary transactions, the Legislature have judiciously empowered the Commissioners of the Treasury to adopt such regulations as may from time to time be found necessary for the due keeping of the Receiver General's accounts with the Bank, and the accounts of the latter in relation thereto. The rules in force before the passing of the Act are thereby confirmed until changed or revoked; and the Receiver

(1) The several provisions embodied in this section are framed as standing clauses, a course pursued by this act in many other instances to obviate the necessity of repeating such provisions in the various acts by which alterations may from time to time be made in the Tariff, or of interfering with the general Law, which it has been deemed desirable to comprise in one Consolidation Act.

General complying with them is, of course, relieved from personal responsibility with respect to any money, &c., so paid by him into the Bank, the Governor and Company of the latter being answerable for all that is actually received by them from or on account of the Receiver General: but, in conferring these powers upon the Treasury, special provision has been made to guard against any infraction of the general law, which governs the application and appropriation of the monies arising from Customs in common with the receipts of the various other revenue departments; therefore, the provisions of the 4th and 5th Wm. IV., cap. 15. are, by special proviso, preserved. Sec. 22.

ENTRY OF PAYMENTS AND INSPECTION OF ACCOUNTS.

As a further security for due payment into the Bank, an entry of each amount paid must be made in a book provided for that purpose, and such entry is a sufficient discharge to the person paying in the money, but is subjected to daily inspection by the Comptroller General or his clerk, for the purpose of ascertaining that the Receiver General pays into the Bank all monies received by him. In the event of the Comptroller General or his clerk discovering any default, he is required immediately to report the fact to the Commissioners of Customs, who, unless it appear to have arisen from inadvertence, are to report it to the Treasury. Sec. 23.

DUTY OF THE BANK IN RESPECT TO MONEY &c., PAID IN.

The monies, notes, bills of Exchange, or drafts, so paid into the Bank are not to be paid, transferred, or disposed of, except in accordance with the regulations of the Treasury. But whenever the Solicitor of Customs shall require any bill, note, or draft, for the purpose of proceeding thereon by extent, the same shall be delivered to him or one of his clerks, on the order of the Commissioners of Customs, such delivery being noted in a book provided for such purpose. Sec. 24.

**MONEY DUE IN LONDON ON DEBENTURES ETC., TO BE PAID
BY RECEIVER GENERAL.**

Moneys due in the port of London upon debentures,⁽¹⁾ certificates or other instruments for the payment of any money out of the duties of Customs are to be paid by the Receiver General, out of any moneys to his account in the Bank of England, under the rules and regulations in force for the time being, which payments are to be allowed by the Commissioners for auditing the public accounts. And, any such payments due at the out-ports may be paid by the Collectors, under the direction of the Commissioners of Customs. By the pre-existing law, returns of duty overpaid by importers, merchants, &c., were barred unless claimed and repaid within three years, but by this section the period is extended to six years. Sec. 25.

To facilitate the due settlement of accounts, the Commissioners of Customs may close the accounts of Collectors, notwithstanding any erroneous appropriation of duties received by them, subject, however, to the correction of such erroneous appropriations, which corrections are to be allowed by the Commissioners for auditing public accounts.⁽²⁾ Sec. 26.

**HOW BALANCE TO VEST ON DEATH, REMOVAL, OR RESIGNATION
OF RECEIVER-GENERAL.**

On the death, resignation, or removal of the Receiver-General the balance to his account in bank is to vest in his successor when appointed, and, until such appointment, in such person as shall be authorised to discharge the duties of the office for the time being. Sec. 27.

(1) The mode of issuing and passing debentures is prescribed by secs. 130 and 131, and the payment is limited to two years after shipment of the goods by sec. 132.

(2) When this provision first became law, the officers of Customs were charged with the receipt of dues, &c., other than Customs duties and which by inadvertence were occasionally carried to the account of consolidated Customs. As to those, this provision is superfluous; but, as there are some dues, for instance, light dues, still collected by the Customs, the provision has been retained.

As a further preventive against fraud, the forgery or uttering of any draft or instrument purporting, to be that of the Receiver or Comptroller-General, is made felony, punishable by transportation for life, and this liability extends to persons wilfully aiding in the perpetration of the offence.⁽¹⁾ Sec. 28.

DISPUTES AS TO AMOUNT OF DUTY PAYABLE BY MERCHANTS.

Connected with the subject of management, the provisions of the Act, which relate to controversies between merchants and officers of Customs, are next to be considered. A very equitable rule is prescribed for determining controversies as to the amount of duty to which the importer of goods is liable. In the event of such controversy, a deposit may be made in the hands of the Collector of the amount which he claims; and the sum so deposited is to be deemed the amount properly chargeable, unless the party making it shall bring an action in one of the superior Courts of Law against such collector⁽²⁾ within three months.⁽³⁾ On the importer making the deposit and passing a proper entry, the goods are to be delivered to him. Sec. 29.

DEPOSIT OF DUTY CLAIMED, IN CASE OF DISPUTE.

The amount so deposited is to be paid into the Consolidated Fund, and, in the event of no action being brought within the prescribed time, is to be retained, as the duty chargeable on such goods; but, if an action be brought, and it be established by the result, that a lesser sum than that deposited was the duty properly chargeable, the difference between those sums, with interest at the rate of five per cent. from the date of the deposit, is to be paid to the importer in satisfaction of his damages and expenses, except his costs of suit, which he is entitled to receive as between party and party, subject to taxation, by the proper officer of the Court. If the verdict be against the plaintiff, the defendant's

⁽¹⁾ Minor forgeries and frauds of this nature are punishable under section 198, and will be treated of in their proper place.

⁽²⁾ Actions against officers in other cases are regulated by secs. 313 to 322 inclusive.

⁽³⁾ Vide note ⁽²⁾ on sec. 57, p. 117.

taxed costs are recoverable as in an ordinary action; and if it be against the defendant, the costs are to be paid by the Commissioners of Customs. Sec. 30.

The foregoing provisions are not entirely new to this Act though of recent date, their origin cannot better be explained than by the following extract from a recent work on the Administration of the Customs,—“ The officers were formerly, not only empowered, but required to detain the merchandize of any importer who, whether right or wrong, had the misfortune to differ with the Collector as to the amount of duty imposed by the latter, and by which the merchant's goods were unprofitably locked up, pending the settlement of the dispute, however advantageous it might be to bring them into market. With the sanction of the Board, provisions were, on the suggestion of the Solicitor of Customs, introduced into the Act of 12 and 13 Vict., c. 90, whereby any importer, in case of dispute as to the duties due, is enabled, on deposit of the amount demanded, to require immediate delivery of his goods without waiting the settlement of the dispute; and, in the event of his establishing his right to delivery, either duty free or at a less rate than the amount paid, the whole or the difference, as the case may be, is at once returnable to him *with interest, ad interim, at five per cent. per annum.*” When this important relief was afforded, the law of costs between the Crown and the subject had not been assimilated to the practice which prevails in ordinary suits; a change which has been effected by this Act. It will, however, be observed, that in the cases contemplated by the section under consideration, the right of appeal in case of controversy is limited to the Superior Courts, although in other cases, which will be considered under their proper heads, that right is extended, as far as possible, to every Court in the kingdom, superior or subordinate. The soundness of the policy, which dictates the reservation in this instance will, however, be perfectly obvious, when it is considered that the cases to which this section applies, are those in which the most intricate questions arise, as to the construction of the tariff, and that, not merely with reference to the terms of the tariff itself, but the operation of treaties, conventions and other incidental

circumstances, which frequently demand the exercise of the nicest discrimination and the most profound judgment. Nor, does the amount of duty in dispute in any isolated case afford any criterion by which to determine the propriety of trying the issue in a superior court. That amount may be far below the maximum sum to which the jurisdiction of the inferior courts, with reference to the amounts recoverable, may be limited, but it must be borne in mind, that a decision, in such a case, if adopted as a precedent, would form the governing rule of construction for subsequent cases of the like kind, in which it may be conceived, without exaggeration, that questions of great liability might be involved; and probably, as no such decision would be deemed satisfactory, the expediency of referring such questions at once to a tribunal of sufficient authority to carry with it the stamp of finality, requires no further comment.

OPEN COURT OF COMMISSIONER.

The two preceding sections have reference to controversies as to the amount of 'duty payable. The succeeding ones, from (31 to 40 inclusive,) have a much more varied character and object. They were introduced into the statute less on account of any well founded grounds of complaint, as to the mode in which the Commissioners have been accustomed to adjudicate in matters of dispute between the mercantile body and the Customs' officers, than to satisfy a somewhat general and popular desire recently excited in the public mind for the institution of an open tribunal. It seemed an especial desideratum with those who advocated the institution of a court for determining disputes between the officers of Customs and others, that, instead of being disposed of upon the written representations of the parties, the officer and the merchant should "be heard face to face." Hence the inauguration of a Court of Appeal as unrestricted and open as the most earnest advocates of publicity can desire.

If in the port of London⁽¹⁾ any dispute shall arise between masters or owners of ships, merchants, importers, consignees,

(1) Similar provision for outports, sec. 37.

shippers, exporters, or agents, licensed or otherwise, and the officers of Customs, as to the seizure or detention of any ship or goods, or any apparently accidental omission or default, or, as to the withdrawal of an agent's license, the Commissioners may hear and determine such dispute. Sec. 31.

If the dispute between the party and the officer be of such a nature as to involve a penalty or forfeiture, the Commissioners are authorised to remit or mitigate either to such amount as may in their judgment appear a sufficient satisfaction for the breach or irregularity complained of.⁽¹⁾ Sec. 32.

It is in two classes of cases, especially, (but these embracing almost every conceivable ground of complaint) that the functions of the new tribunal are to be called into operation. The one comprising matters, which have been already disposed of by the Board under sections 31 and 32; the other embracing every ground of complaint, which the aggrieved party may have occasion to advance against an officer of Customs. As regards the former, the new Court has been constituted on the principle of a Court of Appeal; as concerns the latter, it is made a Court of first instance, giving the complainant the privilege, without waiting for any antecedent *ex parte* inquiry, of bringing the accused officer before the Commissioners' court, and of supporting his charge by any number of witnesses he may think proper to produce; the only preliminary condition required of him, whether the proceeding be in the way of appeal or of a primary nature,

(1) The power given to the Commissioners by this section is new, not in respect to the remission of penalties or forfeitures, which they exercised under the former law, but, to the fact, that the sum, to which the penalty may now be remitted, becomes a substantive and distinct penalty *per se*, and enforceable as such in the ordinary course of proceeding. The same remark applies to forfeitures, which by this section the Commissioners are empowered to commute into a pecuniary fine. Until the introduction of this salutary change, the Commissioners could only impose fines provisionally, and, if the offenders refused to comply, those fines could not be enforced, as such, there being no alternative left to the Commissioners, but that of foregoing the fine altogether, or of prosecuting the offender for the full penalty.

being, that he shall make an application in writing to the Commissioners. Sec. 33.

On receipt of such application the Commissioners of Customs are to depute one of their Board to hold a Court, to which the parties concerned, their agents, and witnesses, as well as the public, are to have free access.⁽¹⁾ The presiding Commissioner is to hear the evidence on both sides, and to report it, for the information of the full Board, in a narrative form⁽²⁾; and the general course of proceeding, as to the taking of evidence and the conduct of the inquiry, is to be in as close conformity as possible with that adopted by Justices at Sessions. Sec. 34.

As already observed, the presiding Commissioner is not himself to adjudicate,⁽³⁾ his province being, to bring before the Board the evidence, with his report of the substance of it, and his individual impression of the weight and effect of the arguments advanced on either side. The Board of Commissioners on

(1) *Vide* general regulations as to Open Court. Note (1), p. 99.

(2) This mode of taking evidence is in accordance with the much approved practice of the Court of Chancery on oral examinations, under the Chancery Amendment Act, sec. 32. It corresponds closely with the course of proceeding before justices and is thus described in a recent treatise on the Acts for the Amendment of the Practice of the Court of Chancery, "The examination shall take place in the presence of the parties, their counsel, solicitors, or agents; and the witnesses shall be subject to cross-examination and re-examination; and such examination and cross-examination shall be conducted as nearly as may be in the mode now in use in Courts of Common Law with respect to a witness about to go abroad. The section directs the mode of taking the depositions. This shall not be in the form of question and answer, but in that of a narrative, conveying the substance, meaning and true spirit of the evidence given by the witness instead of his precise words. Notwithstanding the general direction as to the narrative form in which the evidence shall be taken, the examiner is authorised to put down any particular question and answer if he should see any special reason for doing so: and he shall notice on the face of the deposition, or state his opinion, to the counsel, solicitor, or parties of any objection, without himself deciding on the materiality of any question."—*O'Dowd's New Practice of the Court of Chancery*. 3rd edit., p. 22.

(3) It has been objected, that the presiding Commissioner does not give judgment immediately after the hearing; and that it is unconstitutional not to do so. If this complaint were entertained, the Commissioner would be the only judge.

such order is made, be dissatisfied, he may, within a week after judgment is pronounced, give notice of his refusal to abide by it, in which case the Board may direct a prosecution, or the complainant may bring his action, as if no such order had been made.⁽¹⁾ But, if any party chooses to forego the power of formal appeal to the Commissioners given by the Act, he is to be at liberty instead, to state his case personally, or by his agent, to one of the Commissioners of Customs. Sec. 35.

This latter provision, which was introduced into the Act, whilst passing through Parliament, is clearly superfluous, the privilege it guarantees, having been always freely conceded.

Incident to the conduct of such inquiries is authority to enforce decorous behaviour in Court, and the power exercised by magistrates for that purpose is conferred on the Commissioners. Sec. 36.

OPEN COURTS AT THE OUTPORTS.

A corresponding Court to that in London for investigating cases of a similar nature between the same classes of persons⁽²⁾ is also established in every outport, substituting the collector, comptroller or other officer of Customs deputed for that purpose, in the place of a Commissioner. Sec. 37.

In any of the cases above enumerated, inquiries and examinations may be conducted by the Commissioners of Customs, or by surveyors-general, collectors, or such other persons, as the Commissioners shall appoint; and, upon every inquiry, they will have the power of administering oaths; and persons falsely swearing are made guilty of perjury, and subject to the penalties thereof.⁽³⁾ Sec. 38.

The power of summoning witnesses is conferred on the Commissioners, collectors, or other officers conducting such inquiries, and persons refusing to attend or give evidence in pursuance of such summons, are subject to a penalty of £20.⁽⁴⁾ Sec. 39.

Finally, the Commissioners of Customs are invested with the

⁽¹⁾ The course of proceeding against officers is prescribed by secs. 313 to 332 inclusive.

⁽²⁾ *Vide* sec. 31.

⁽³⁾ As to false answers and oaths in other cases, *vide* secs. 198 and 311.

⁽⁴⁾ A similar power with reference to enquiries of an analogous character existed under the repealed Act, (13 & 14 Vic. cap. 95, sec. 17); the penalty being £50, now reduced to £20.

power of framing rules and regulations for the conduct of those inquiries.⁽¹⁾ Sec. 40.

(1) "Under the powers contained in the 40th section of the Customs Consolidation Act, 1853, the Commissioners of Customs have made the following rules and regulations as to complaints and disputes between merchants and others, and the officers of Customs, the public investigation thereof, and inquiries touching matters relating to the Customs, and the conduct of officers or others concerned therein :—

"I. A room on the ground floor at the eastern end of the Customs house, London, shall be appropriated to the hearing of complaints and appeals under the Customs Consolidation Act, 1853.

"II. One Commissioner will sit in the Court, at 11 o'clock on Tuesdays and Fridays in every week, when necessary, to conduct such enquiries, as may have been demanded, and on such other days as the Commissioners may appoint, on special application, in cases requiring more urgent despatch.

"III. In order to such inquiry it will be sufficient for the party requiring it to apply to the Board by letter, addressed either to the Commissioners or their secretary, stating his place of abode or business, the case to which he refers, and the substance of his complaint ; or, if it have reference to any decision of the Board, the reasons of his dissatisfaction with such determination.

"IV. On receipt of such application the case will be heard on the next possible open court day, without further notice to the party, who will be required to attend with his witnesses, if any, on such day, at eleven o'clock, unless in cases where on special application, any earlier day is appointed, in which case he shall have notice thereof personally, if he attend for that purpose, or by letter addressed to him at the place of abode or business stated in his application.

"V. Any party demanding such enquiry will be entitled to have a summons, requiring the attendance of any witnesses necessary to establish his case, on application to the Board.

"VI. Any party feeling himself aggrieved and who may be desirous of stating his case to one of the Commissioners, instead of demanding an inquiry in open court, may do so on applying to the secretary of the Board.

"VII. All parties concerned are referred to the provisions of the law *in extenso*, contained in sections 31 to 40 of the said Act.

"VIII. With regard to the outports, the like rules are to be observed as far as practicable. The collector, comptroller, or other officer deputed for that purpose, presiding at the inquiry instead of a Commissioner—and complaints may be made by letter addressed to the Collector. But any complainant will be at liberty, and is requested, if time will admit, to address his application to the Commissioners, in order that they may have the earliest intimation of the case, and issue any directions which may appear desirable for facilitating the enquiry."

"Copies of this notice are to be publicly posted in the respective Custom houses, for the information of all persons concerned."

CHAPTER II.

IMPORTATION AND WAREHOUSING OF GOODS.

The right to import merchandise from one country to another has been from the most remote dates of history modified and controlled by the municipal laws of the country, into which the importation has taken place. It is, in this country, the subject of regulation by statute; and few branches of commercial legislation have been subjected to a greater succession of changes. The new Act, however, as compared with the recently repealed laws, introduces no material alteration. It authorises the importation of all goods, not prohibited⁽¹⁾ by this or any co-existing law to be imported, and permits, as a general rule, the warehousing of dutiable goods in approved warehouses,⁽²⁾ without payment of duty on their first entry.⁽³⁾ To this rule there are, however, some excep-

(1) For the prohibitions inwards under this Act, *vide* sec. 44.

(2) *Vide* sec. 10.

(3) The duties become a debt to the Crown immediately on the importation—Com. Dig. Debt (A. 9.) *Leaper v. Smith*—Bunb. 79. *Anonymous* Lane 15. *Salter v. Magapert* 1 Roll. Rep. 383. *Attorney General v. Weeks*, Bunb. 223. See also the late case of the *Attorney General v. Ansted*, in which it was held, that the importer of goods from a foreign country is liable on the importation to the duties of Customs, payable thereon, and this liability is not affected by the Warehousing Act 3 and 4 William IV. c. 57 (nor on the same principle by the corresponding sections of the *Customs Consolidation Act*, 1853), the effect of which is only to give the merchant, in the case of goods warehoused under it, time for payment of the duties, until the goods are entered for home consumption. And, if the merchant have obtained the goods from a bonded warehouse, without making any entry for home consumption and without the duties having been paid, he is liable to an information of debt for the duties, and it is no answer to it, that a Custom-house agent employed by him to make the entry and pay the duties, misappropriated the money and fraudulently obtained the goods. *Attorney General v. Ansted* 12 Mees. & W. 520.

tions. Power is given to the Commissioners of the Treasury to direct, from time to time, on what goods duty shall be paid on their first importation, and such goods are not to be warehoused either for home consumption or exportation. With respect to corn, grain, meal, and flour, and wood goods from the British Possessions, the law requires the payment of duty on their first importation, and absolutely prohibits the warehousing of those articles. Sec. 41.

DEFINITION OF TIME OF IMPORTATION AND ARRIVAL.

Questions will frequently arise, as to what shall be deemed in law the precise "time of importation"⁽¹⁾ of goods, to determine which, the Act defines it to be the time at which the importing ship comes within the limits of the port, where she shall in due course be reported and the goods shall be discharged. And the "time of arrival" of a ship is that, at which the report of such ship shall be, or ought to have been, made.⁽²⁾ Sec. 42.

DEFINITION OF IMPORTATION DIRECT.

Goods are not deemed to be imported direct from any place, unless put on board the importing ship there, as the first shipment, or, unless they have been actually landed there. Sec. 43.

PROHIBITIONS AND RESTRICTIONS INWARDS.

If any goods subject to prohibition or restriction on importation be imported contrary to the prohibitions or restrictions contained in the table in which they are enumerated, they are liable to

⁽¹⁾ Time of report defined, sec. 50.

⁽²⁾ This distinction between the time of importation and of arrival is essential, inasmuch as some of the provisions of the law will be found to have reference to what is to be done, after the ship comes into port, but before report; whilst others apply only to what is to be done after report. Under the statutable definition, the time of arrival is twenty-four hours after the ship comes within the limits of the port, unless she report earlier, in which case, the time of report becomes the time of arrival.

forfeiture, and may be destroyed or otherwise disposed of, as the Commissioners of Customs may direct. Sec. 44.

Notwithstanding the most earnest endeavours to simplify the prohibitory provisions of the act, it became impossible to abstain altogether from the use of the involved tabular style of the antecedent enactments. To assist, however, in removing any practical difficulty as to the meaning of the various prohibitions and restrictions inwards, the following familiar exposition is given instead of the statutable table, to be found in sec. 44.

The table is divided into three parts :—

First. Prohibitions absolute.

With reference to this, there can be no doubt. It comprises copyright works,⁽¹⁾ false money, coin below the established standard, essences of coffee, chicory, tea, and tobacco, malt, indecent books, prints, and other obscene articles, snuff work, tobacco stalks, and tobacco stalk flour.⁽²⁾

Second. Prohibitions of goods, except in transit, and subject to such regulations and restrictions as the Treasury may direct.

This division embraces goods permitted only to enter British ports in continuance of their voyage to other countries, and which must be reported "in transitu." These are foreign manufactures

(¹) Lists are to be published as required by section 46; and the same in the British Possessions, by section 160. It may be appropriate here to notice the statutable provisions affecting copyright in furtherance of the objects of which the aid of the Customs is enlisted. Several Acts have been passed on the subject of copyright, some, exclusively, relating to the conditions upon which that right may be protected, as between authors and those invading it, and, in no respect, calling into action the official machinery of the Customs. In other instances, and especially with reference to the importation of pirated works, the legislature have thought proper to add to the ordinary duties of the Customs department the task of assisting in the protection of copyright when attempted to be infringed by pirated importations. The provisions which more particularly demand the attention of the officers of Customs are 5 and 6 Vict. c. 45, s. 17; 7 Vict. c. 12, more particularly sec. 10; 9 and 10 Vict. c. 58, and 15 Vict. c. 12.

(²) Prohibited goods are also liable to forfeiture under section 209, and persons concerned in their illegal importation are subject to penalties under sec. 322. *Vide* secs. 203, 212 and 213.

and packages of them bearing names, brands, and marks, calculated to pass them off as of home manufactures. ⁽¹⁾

Clocks and watches, of any metal, bearing any stamp in imitation of the legal British assay, or any mark giving them the character of home manufactures. ⁽²⁾

Parts of articles, unaccompanied by the other component parts which, if complete, would be subject to *ad valorem* duty. ⁽³⁾

(1) The obvious design of this provision is to protect the British trade from the injury and possible loss of character, consequent on the introduction of spurious imitations of our industrial products; but the old law went much further, inasmuch as it contemplated the injury to British manufacturers, which might ensue from the transshipment of such goods in British ports and into British vessels for foreign markets from the strong ground these circumstances would naturally afford for assuming that such manufactures were British. Hence, under the repealed law, articles of foreign manufacture, and packages of such articles imported into the United Kingdom, or the British Possessions, bearing any names, brands, or marks of, or purporting to be those of manufacturers resident in the United Kingdom, were absolutely prohibited, forfeited, and, in express words, interdicted from being imported or warehoused for exportation. This applied in the broadest manner to all foreign goods attempted to be imported or put off as British, whether by the use of actual names, brands, or marks of particular home manufacturers, or such as merely purported to be so, whereby a British character was assumed, but in deference to the opinion and recommendation of the Select Committee of the House of Commons, "That it is not necessary to enforce the regulations of 8 and "9 Vict. c. 86, sec. 163, as to the transit of foreign manufactures with "imitation British marks," (Final Report, head 7, Title, "*Transit System*"); the law has been thus modified. But, anticipating the possible necessity for some check on this species of traffic, care has been taken, whilst permitting, as a general rule, the transit of such goods through our ports, to render this relaxation of the law subservient to such regulations and restrictions, as the Treasury may deem it expedient to impose. Imports bearing the name or mark of known British manufacturers and imported by them are admitted.—B. O. 1857.

(2) The objects of this provision are two-fold: the prevention of fraud on the Crown and the public, by passing off foreign metals under the character of British assayed articles and the introduction, as in the case of other manufactures, of surreptitious imitations of home products.

(3) This prohibition is designed to guard against the fraudulent importation of goods in detached portions, comparatively valueless, when thus detached, but, which, if introduced at once in their complete state, would command a value, giving a large per centage of duty to the Crown, the evasion of which would be detrimental to the revenue and to the conscien-

Third. Prohibitions subject to certain restrictions.

This division comprises importations, admissible under particular restrictions, and, as it is in these, that some perplexity arises from the inverse mode of expression usually adopted in framing prohibitions, qualified by conditions and exceptions, a mode of elucidation is adopted which appears to be best calculated to convey the meaning of the Legislature.

As a rule, cattle, sheep, and other animals, and hides, horns, &c., may be imported; but, for the prevention of contagion, power is given to the Crown to prohibit, when necessary, the importation of infected animals and animal matter.

Silk manufactures of Europe may be imported into the ports of London, Liverpool, Hull, Southampton, Leith, Dublin, and such other ports as may be appointed by the Commissioners of Customs, and direct from Calais or Bologne, into Dover or Folkestone, but, they cannot be imported in any ship of less than fifty tons burden.

Perfumed or medicated spirits⁽¹⁾ may be imported in any ship, and in any sized cask, bottle, or other package.

Other spirits, being part of the cargo of the ship, and duly reported, may be imported in casks of not less than twenty gallons, or in bottles not exceeding three pints in ships of not less than fifty tons burden.⁽²⁾

Tobacco and snuff may be imported direct from the East Indies in packages of one hundred pounds each.

Tobacco may be imported direct from the Turkish Dominions, including Egypt, in packages of not less than one hundred pounds each.

Negrohead tobacco, and also snuff, the produce of the United States of America, may be imported in hogsheads, casks, chests or cases, of not less than two hundred pounds each; or, if imported direct from those states, in packages of not less than one hundred and fifty pounds.

tious competitor in trade, who pays the proper duties on the like articles, when imported in their entirety.

(1) And cordials, by T. O., 4th March, 1826.

(2) As to Channel Islands, *vide* sec. 192.

Tobacco from Malta may be imported in hogsheads, casks, chests, or cases of not less than two hundred pounds each: or, if imported direct from Malta, or from the United States of America, in packages containing not less than eighty pounds each.

Tobacco the produce of Porto Rico, Mexico, South America, St. Domingo, Cuba, the British Possessions in America, and West Coast of Africa, may be imported in hogsheads, casks, chests, or cases of not less content than two hundred pounds each; or, if imported direct from those places or from the United States of America, in packages of not less content than eighty pounds each.

Tobacco and snuff, the produce of the Philippine Islands, may be imported in hogsheads, casks, chests, or cases, of not less than two hundred pounds each; or, if imported direct from Manilla in bales or packages of not less than two hundred pounds each.

Tobacco and snuff, from any country, may be imported in hogsheads, casks, chests, or cases of not less than two hundred pounds each.⁽¹⁾

Cigars may be imported in packages of not less than one hundred pounds each.

Cigarillos or cigarettos may be imported in packages of not less seventy-five pounds each.

Tobacco (not being cigars, cigarillos, or cigarettos, and snuff) must not be separated or divided in any manner within the package in which the same is imported. This restriction applies to each of the foregoing cases, except as to tobacco from the Turkish dominions and Egypt.

All tobacco, snuff, cigars, cigarillos or cigarettos of any kind must be imported in ships of not less than one hundred and twenty tons burden⁽²⁾; and only into such ports, as are, or may be, approved of by the Commissioners of Customs.

The weights in all the above cases must be net.

The importation of arms, ammunition, gunpowder⁽³⁾ or any

(1) Tobacco from Greece admitted in 100 lbs. cases.—T. O. 29th Oct., 1853.

(2) As to Channel Islands, *vide* sec. 193.

(3) Gunpowder, ammunition and utensils of war are by section 159 absolutely prohibited to be imported, or carried into the British Possessions in

other goods may be prohibited by Proclamation, or Order in Council. Sec. 45.

This power, though seldom exercised, is a wholesome provision for defensive, as well as sanitary, purposes.

INFRINGEMENT OF COPYRIGHT.

The duty is imposed upon the Commissioners of Customs of printing and exposing to view at the several ports of the United Kingdom and the Colonies, lists of copyright books of which they shall have had notice from the proprietor or his agent, that such copyright subsists, and of the time at which it expires.⁽¹⁾ Sec. 46.

SHIPS COMING INWARDS.

On the entrance of a ship into any port, she must conform to four specific injunctions of the statute.

1st. She must come as quickly up to the proper place of mooring, lading, or unlading, as the nature of the port will admit.

2nd. In proceeding to such place, she must "bring-to" at the stations appointed for the boarding of Customs officers⁽²⁾.

America, or the Mauritius, except from the United Kingdom. And by section 150, arms, ammunition, gunpowder, and military and naval stores, or articles applicable or convertible to such purposes, as well as provisions, or human food, may, by proclamation or order in council, be prohibited to be exported, or carried coastwise.

(1) The corresponding provision with respect to the British Possessions is contained in sec. 160, and *vide* note (1) page 102.

(2) The power to appoint stations, &c., has already been pointed out under sec. 13. Ships are usually accompanied by pilots, who are well acquainted with the various stations; and it may be proper here to observe that there are various duties imposed on the Customs under the pilotage Act, a brief review of which may be convenient in this place. By 6 Geo. 4, c. 125, the antecedent Acts of the 52 Geo. 3, c. 39, and 55 Geo. 3, c. 87, and all provisions in other Acts, relating to pilotage were repealed, and the Acts now in force, relating to pilotage, are the 6 Geo. 4, c. 125, as amended by the 9th Geo. 4, c. 86, the 3 & 4 Vic. c. 68, the 12 & 13 Vic. c. 88, and the 16 & 17 Vic. c. 129. The 7th section of the 6 Geo. 4, c. 125, commonly called the pilot consolidation Act requires that all notices of appointments of pilots are to be put up in writing in the Trinity House and Custom House and at the Custom Houses of the ports for which they are licensed and are to be published in the "London Gazette." Section 8, directs that tables of pilotage rates shall be hung up at the Cus-

3rd. After arriving at such place, she is not to remove, except directly to some other proper place of mooring or unloading, nor without the knowledge of the officers of Customs.

tom Houses of the respective ports and that no greater or lesser rates shall be received or paid. The 11th, 12th & 13th sections authorized the corporation of Trinity House to make bye laws, which were to be transmitted to the Privy Council and the Commissioners of Customs, and after the expiration of three months, to be submitted to a chief justice, either of the Queen's Bench or Common Pleas for approval; but by 16 & 17 Vic. c. 129, s. 23, those rules are to be submitted to Her Majesty in Council, instead of one of the chief justices. When approved, the Commissioners of Customs are required to cause them to be printed and hung up in the several Custom houses at the principal ports in Great Britain. Section 25 refers to a table of rates given in the schedule which were to be the only legal rates demandable by pilots, but the 16 & 17 Vic. c. 129, s. 21, authorises variations from time to time in the amount of those rates. Sections 35 & 36 provide for the making out of a list annually of all pilots appointed within the year, and for its transmission to the Trinity House and Custom House, and for the transmission of by the Commissioners of Customs to the several chief officers of Customs, of so much of the list as contains the names of pilots licensed within their ports. Section 43 directs the insertion by the proper officer of Customs of the pilot's name in the report or entry of every ship, entering the port of London. The officer was, further, to report such insertion to the corporation of the Trinity House daily, and to the Lord Warden of the Cinque Ports monthly; but the 16 & 17 Vic., c. 129, dispenses with the necessity of such further report to the Lord Warden of the Cinque Ports. Provisions are made by sec. 46, for the manner in which pilotage of ships, not having British Registers trading to and from the port of London, shall be paid, and by sec. 66, for the registration of pilots' licenses by the principal officers of Customs at the ports, and penalties are imposed in default of such registration. The only other sections of this Act, in which the Customs are concerned, are 67, 68, and 72, which relate to the conduct of pilots and their being required to take charge of vessels on the request of any master, &c. or Customs officer. The 9 Geo. 4, is entirely repealed by 16 & 17 Vic. c. 129. The 3 & 4 Vic. c. 68, was passed to enable Her Majesty in Council to authorize vessels of foreign countries under treaties of reciprocity to be piloted in certain cases without licensed pilots; but, does not contain any special provisions requiring additional service on the part of the Customs. The 16 & 17 Vic. c. 129, vests the piloting of vessels in and out of London in one body of pilots, subject to the uniform control of the Trinity House, the pilots of the latter, and of the Cinque Ports being united, and the property, rights, duties and liabilities of both incorporated. These laws are now undergoing further revision by Parliament.

4. The master of such ship is to provide for every officer stationed on board sufficient room, under the deck in some part of the forecastle or steerage, for his bed or hammock.

In case of violation of any of the foregoing provisions, the master is liable to a penalty of £20. Sec. 47.

POWER OF OFFICERS TO BOARD SHIPS INWARDS.

As a further means of preventing fraud upon the revenue, the officers of Customs are necessarily armed with an extent and variety of power suited to the exigencies of their peculiar service. They may board any ship on her coming into port ⁽¹⁾—continue on board—while any portion of her cargo remains undelivered—have free access to every part of the ship—fasten down hatchways or entrances to the hold—mark goods before landing—lock up, seal, mark, or secure, as they think proper, goods on board—and, in case the keys of any locked box or chest be withheld, they may, if of a rank superior to that of tidewater, open any such box or chest, in whatever way they may think proper—or, if tidewaiters, may send for any superior officer to open them—and if any goods be found concealed on board any such ship, they are liable to forfeiture.

If any lock, mark, or seal, affixed by the officer on any goods, be opened, altered, or broken, before due delivery of such goods;—or, if any of such goods be secretly conveyed away;—or, if the hatchways or entrances to the hold, after being fastened by the officer, be opened, the master of the ship will forfeit £100. So also, if any lock, mark, or seal, placed by the officer upon any stores on board any ship arriving in the United Kingdom, be wilfully opened, altered, or broken, or, if any such stores be secretly conveyed away, either while the ship remains in port or before arriving at any other port of the United Kingdom for which she is destined, the master is liable to a penalty of £20.⁽²⁾ Sec. 48.

⁽¹⁾ Power to board ships outwards. Sec. 146, 219, & 222. British Possessions. Sec. 184.

⁽²⁾ A like provision with reference to stores of outward bound ships is contained in sec. 147.

TIMES AND PLACES OF LANDING GOODS.

As a general rule, in the absence of which the 6th section, as to holidays, would be inoperative, the Act provides, that no goods shall be unshipped or landed on Sundays or Holidays, except diamonds, bullion, lobsters and fresh fish of British taking, imported in British ships, nor on any other days, except between eight o'clock A.M., and four o'clock P.M., from the 1st of March until the 1st of November,—and, between nine o'clock A.M. and four o'clock P.M. from the 1st of November to the 1st of March,—or, such other hours, as may be appointed by the Commissioners of Customs,—Nor shall any goods be unshipped or landed,—except in the presence or under the sanction of the proper officers of Customs,—or, except at the proper quay, and by the boat in which they were first sent to be removed and landed, unless transhipped into any other craft by permission of the officer⁽¹⁾.

Goods removed in violation of these regulations are, together with any boat or craft used in removing them, forfeited. Sec. 49.

REPORT OF SHIP AND CARGO.

The master of every ship, however laden, is, within twenty-four hours after her arrival, and before bulk be broken, to report⁽²⁾ such

(1) *Vide also* sec. 209.

(2) At the time of report, attention is required to the following statutory provisions :—

Post-Office Regulations.—By 1 Vict. c. 36 the master, officer, crew, or passengers of any ship retaining letters after the delivery of the ships' letters to the Post-office will forfeit £5 for each letter, and for detaining letters after demand by the officer of Customs or person authorised by the Post-Master-General, £10 for each letter.—Sec. 3.

Officers of Customs who are required by 1 Vict. c. 34 to prohibit vessels reporting, until the requisites of that Act are complied with, are, by this Act (c. 36), subjected to a penalty of £50 for neglect.—Sec. 6.

By 3 and 4 Vict. c. 96 the master is not allowed to report his ship, until he has declared before some person at the port, authorised by the Post-Master-General, that he has delivered at the Post-Office all letters that were on board. The officers of Customs may search for and seize letters on board after report.—Sec. 36.

The penalties imposed by 7 Wm. 4, and 1 Vict. c. 34 are extended (by c. 36) to officers of Customs neglecting to prohibit ship's report before declaration made.—Sec. 37.

ship in the form given by the Act, or to that effect; and if the cargo shall have been laden at several places, he is to state those places, opposite the particulars of the goods, as required by the directions in the statutable form. Sec. 50.

This tabular arrangement is not designed to bind the parties by a set form, regardless of their convenience, but to furnish at one view, the particulars required to be filled up, without having to wade through tedious descriptive enactments for them. The law stipulates only for such particulars, as are indicated by the form, or to that effect, giving ample latitude for more convenient arrangement, should experience render it necessary. When a form

If it be suspected, that any letter contains contraband goods, the Post-Master General may forward it to the Commissioners of Customs, to be opened by them in the presence, or, in case of non-attendance after notice, in the absence, of the person, to whom it is addressed, and to be dealt with as prescribed.—Sec. 65.

Registry.—Under 8 and 9 Vict. c. 85, sec. 140, saved on repeal of that Act, pending the revision of the registry laws, to which it properly belongs, the collector may refuse to admit any one to act as master of a ship, unless his name appears on the certificate of registry.

Alien Act.—By 6 and 7 Wm. 4, c. 11, the master of a ship on arrival, must make a written declaration of the number of aliens on board or landed from his ship, under a penalty of £20; and a further sum of £10 for each alien not mentioned in the declaration, on non-payment of which the vessel may be detained. Sec. 2. Aliens on arrival are required, under a penalty of £10, to show their passports to the chief officers of Customs and declare the day and place of their landing, their names, and that of the country to which they belong, or from which they have come. Sec. 3. The officer of Customs must register the declaration in a book for that purpose in counterpart, and deliver one to the alien, transmitting the other, with a certificate, to one of Her Majesty's Chief Secretaries of State, or, if in Ireland, to the Chief Secretary for that country. Secs. 4 and 5. On the departure of any alien, he is required to deliver his certificate to the chief officers of Customs at the port of departure, who is to transmit it to one of the Chief Secretaries of State, or, if in Ireland, to the Chief Secretary of Ireland. A provision is made for renewing lost certificates. Sec. 7. All certificates are to be given without fee, and the officer omitting to give or transmit such certificates, will incur a penalty of £20. Sec. 8. Penalties for forgery, and the mode of prosecution of offences, are imposed and prescribed by sections 9 and 10. These provisions are not, however, to affect foreign ministers, or their servants, nor aliens, who have been resident within the kingdom for three years, or who are under fourteen years of age. Sec. 11.

is once adapted to the purpose,⁽¹⁾ and approved by the officers, it is obvious, that considerable advantage must accrue from the consequent non-liability to rejection and re-preparation. This observation is generally applicable to the other forms prescribed by the Act.

Although the "Merchant Shipping Act" (16 and 17 Vict. c. 131, sec. 31,) removes the restrictions on the employment of foreign seamen, the master is still required to report the number of his crew, distinguishing British and foreign. This is for statistical, and not Customs', purposes, and furnishes a test of the practical results of the change in the law.

(1) The following represents a ship's report, as practically used.

Port of <i>London</i> .			
In the Ship <i>Neptune</i> , of <i>London</i> , <i>British</i> * built, Property all <i>British</i> or <i>Foreign</i> (as the case may be), about 500 Tons, with <i>sixteen</i> Men, of whom, <i>fourteen</i> are <i>British</i> , and <i>two</i> are <i>Foreign</i> , besides <i>John Jones</i> , a <i>British</i> man, Master for this present voyage, from <i>Calais</i> .			
Where laden in order of time.		Description of Goods.	Consignees,
<i>Havre</i>	<i>B</i>	$\frac{1}{2}$ 6 cases <i>Brandy in transit</i> .	<i>John Smith</i> .
"	<i>C</i>	$\frac{1}{2}$ 4 cases <i>Cordials</i> , for <i>Newcastle</i>	<i>Order</i> .
"		$\frac{1}{2}$ 8 chests <i>Tea</i> , for <i>exportation in same ship</i>	<i>J Jones</i> .
<i>Calais</i>	<i>K</i>	$\frac{1}{4}$ 100 boxes <i>Cheese</i>	<i>J. Barber</i> .
"	<i>Q</i>	$\frac{1}{2}$ 4 cases <i>Flower Roots</i>	"
"	<i>P</i>	$\frac{1}{4}$ 2 boxes <i>Merchandise</i>	"
		<i>Stores.</i>	
		3 gallons <i>Brandy</i> .	
		7 lbs. <i>Tea</i> .	
Alien passengers 3.			
Pilot, <i>Wm. Jones</i> .			
I declare, &c., (in the words of the Act.)			<i>J. Jones, Master</i> .
* If Foreign, state the country.			

The words printed in italics are those to be inserted by the master.

It will be observed that column 4 of the form given in the Act requires, amongst other things, that the "general denomination of the contents of each package of tobacco, cigars, or snuff," be stated. It is the only requirement of this kind now remaining, except as to spirits, (see table of prohibitions inwards, s. 44,) the Act having dispensed with such particulars in respect of cambrics, lawns, leather gloves and silks.

If the master fail to make due report, in the form required by the Act, so far as the same is applicable, or, if the particulars contained in such report be false,⁽¹⁾ he will forfeit £100. Sec 51.

AMENDMENT OF REPORT.

The law requires, that the master's report should be accurate. The power of dealing with any irregularity in this respect, therefore, is properly left in the discretion of the Commissioners, and although the Act contains no express provision for the amendment of the Report, it appears to be a subject of sufficient importance to demand consideration under a separate head.

The master's Report with the certificates of origin, &c., where necessary, becomes, when delivered into the hands of the collector, the basis of the importer's operations. It is, therefore, highly important, that the greatest possible accuracy should be insisted on. The master or person in command of the ship, whose duty it is to take a correct account of the goods committed to his care, and to enumerate them in his cargo book, is also furnished with bills of lading of the merchandize shipped, and is responsible for the due delivery of the whole cargo. It is, therefore, fairly presumed, that he has the amplest means of rendering an accurate account on arrival at the port of discharge. But, it will sometimes happen in the case of extensive cargoes of a mixed character, or, from accidental circumstances, that the master, without the slightest inten-

(1) The chief security of the revenue consists in the boarding and keeping of officers on ships arriving in port, until the cargo is discharged, secs. 47 & 48; the liability of the master to a penalty of £100, if he allow bulk to be broken before report, sec. 50; the forfeiture of the goods if unshipped or landed without the authority of the Customs, secs. 49 & 86; and the forfeiture of dutiable goods on unshipment, the duties not being first paid or secured, (such security being due compliance with the requisites incident to importation, viz., report and entry for home consumption, or for the warehouse, if payment of duty be deferred,) sec. 209. Forfeiture, however, of the importer's goods cannot be enforced solely on account of the negligence of the master to report them, unless there be fraud or connivance. The forfeiture of the goods imposed by the pre-existing law (8 & 9 Vict. c. 86, sec. 2), in case of non-report alone, is not re-enacted in the corresponding section of this Act (sec. 51).

As to non-report in the British Possessions, *vide* sec. 164.

tion of fraud, may make some mistake in his report, in which event, and on its being found, on the landing of the goods, that the contents of the ship and the report do not correspond, it will be the duty of the master to amend his report, for which purpose, on applying to the proper officer, he will be instructed as to the mode in which he is to obtain permission to amend.⁽¹⁾ But if fraud or wilful negligence be apparent, he will of course be liable to fine or prosecution, at the discretion of the Commissioners. It is, therefore, necessary, that the Board should be apprised of the facts, as affecting the conduct of the master, to enable them to determine whether to grant relief, remit or mitigate the penalty, or insist on its enforcement.

If the master feel aggrieved by the decision of the Commissioners, he may appeal in the manner prescribed by sec. 34, p. 96.

COMMISSIONED SHIPS.

When a ship, having commission from Her Majesty, or from any foreign state, arrives at any port in the United Kingdom, with a foreign cargo on board, the person in charge is, previous to the removal of any part of such cargo, and on the request of any officer of Customs, to deliver a written particular of such cargo, specifying—

The quantity and quality of every package of the goods ;—the

(1) IN LONDON. The proper officers are empowered to dispense with amendments of the report in the following cases:—1st. for free goods, corn and firewood, either in excess, or deficiency of the number of packages or quantity reported, unless considerable.—And 2nd. for the following low duty goods, when the packages short landed, shall not exceed two per cent. viz., apples, raw arrow-root, biscuit and bread, cassava powder, cherries raw, fruit raw, grapes, mandioca flour, manna croup, medlars, meal and flour, onions, pears, potatoes, flour, pearled barley, quinces, rice, sago, semolina, starch, gum of starch, powder usable as starch, tallow and tapioca.—And 3rd. for other goods (and as to Class 2) in cases of excess, where the duty shall not exceed 30s., unless the quantity in excess, without reference to the amount of duty, shall be considerable.

AT THE OUTPORTS. The collector and comptroller may, under certain conditions, permit amendments of reports in cases where the duty involved does not exceed £20.

marks and numbers on each package;—and the names of the shippers and consignees;—he is also to subscribe a declaration of the truth of such particular, and to answer any questions which may be put to him by any collector or comptroller concerning the goods imported, under a penalty of £100. All commissioned ships may be boarded and searched by the officers of Customs in the same manner as merchant ships, and any goods found in them may be brought into the Queen's Warehouse, subject to such regulations, in respect of ships of war, as may be prescribed by the Commissioners of the Treasury.⁽¹⁾ Sec. 52.

CONDITIONS TO BE PERFORMED BY MASTERS GENERALLY.

The master of every ship, arriving from parts beyond the seas, is,—at the time of making his report,—to deliver to the collector or comptroller, if required, the bill of lading for every part of the cargo, or a copy thereof,—to answer such questions as shall be put to him by the collector or comptroller, as to the ship, cargo, crew, and voyage,—and in case of refusal to answer questions,—or to answer truly,—or to produce the bill of lading or copy,—or if such bill of lading or copy be false,—or if the goods mentioned therein shall not have been *bond fide* shipped on board such ship,—or if the bill of lading shall not have been signed by such master,—or if the copy of it shall not have been received or made by him prior to his departure from the place of shipment,—or, if on the ship's arrival within four leagues of the coast of the United Kingdom, bulk shall have been broken,—or, if any alteration in the stowage of the cargo, so as to facilitate the unlading of any portion of it,—or if any part be staved, destroyed, or thrown overboard,⁽²⁾—or if any package be opened, unless accounted for to the satisfaction of the Commissioners of Customs,—the master in every such case, is to forfeit the sum of £100. Sec. 53.

Packages intended for exportation in the same ship, and reported "Contents unknown," may be opened and examined on

⁽¹⁾ As to detentions on H. M. ships *Vide* Sec. 237.

⁽²⁾ The ship is also liable to forfeiture under Sec. 216.

board, or removed by the proper officers to the Queen's Warehouse for that purpose. And if prohibited goods be found in them, they are forfeited, unless the Commissioners of Customs shall permit them to be exported. Sec. 54.

Prohibited goods so seized may, under Sec. 44, be destroyed or disposed of by direction of the Commissioners.

ENTRY OF DUTIABLE GOODS FOR HOME CONSUMPTION.

When dutiable goods are intended for home use, on the landing of them from the ship, the importer, or his agent, is required, before unshipment, to make a perfect entry of such goods,⁽¹⁾ by delivering to the collector or comptroller a bill of entry of them in the form prescribed by the Act, or to that effect; and the particulars of such entry are to correspond with the particulars in the report of the ship, or in any certificate of origin,⁽²⁾ or other document, when required, authorising the importation or entry of the goods,⁽³⁾ or under which any benefit accrues to the importer

(1) Goods, except baggage, landed without entry are forfeited, under secs. 69 and 209.

(2) As to certificates, *vide* secs. 77 to 84, and 176 to 180.

(3) As already observed, in treating of "Report of Ship," (p. 110,) the forms given by the Act are not arbitrary, but indicative only of what is required, in elucidation of which, specimens of the various kinds of entry, as actually used, are furnished by way of note to the comments on the several sections under which they are required. For the purpose of practical illustration, hypothetical cases are adopted, the words printed in italics exemplifying what is to be filled up by the importer or his agent. The following represents an entry for dutiable goods delivered from the ship for home use.

PRIME ENTRY (DUTY GOODS).

Brewer's Quay.

Port, *London.* *Prime entry.*

Ship { *Neptune,*
British. Master, *John Jones.* Port whence, *Calais.*
 Importer, *J. Barber.*

Marks. Numbers. *Fifty boxes, twenty hundred weight of Cheese.*

K $\frac{1}{10}$ Total Duty, £2 10s. 0d.

(Signed) *J. Barber,*

Date, *Oct. 12th, 1853.*

Importer or Agent.

from the distinction. And when the value is required to be stated, the importer, or his agent, is to subscribe a declaration verifying such value ⁽¹⁾ Sec. 55.

The entry is invalid, under Sec. 68, unless the goods are described by the denominations, characters and circumstances according to which they are chargeable with duty.

Under section 68, counterparts of entries may be required, and this entry should be in triplicate, of which, two parts may be in figures. It is technically denominated a "prime entry," not because it may not be final, but, because it sometimes happens to be insufficient from want of accurate information, in the first instance, as to the quantity of goods, &c., in which case, what is termed a "post entry," becomes necessary to complete the transaction, as, for instance, if the importer having passed his entry for 20 cwt. of cheese, finds on the examination of the goods, that there are 30 cwt., he passes a further entry for the difference, calling this a "Post Entry," and referring therein to the date of the "Prime Entry." The following is a specimen.

POST ENTRY.		
<i>Brewers Quay.</i>		
Ship {	<i>Neptune.</i>	Master Jones @ Calais.
	<i>British.</i>	J. Barber.
Post—prime 12th Oct., 1853.		
<i>Ten hundred weight of Cheese.</i>		
		Duty £3 5s. Od.
Dated 13th Oct., 1853.		J. Barber.

Two duplicates are required in the above cases, but as to *Spirits and Tobacco*, (under the Excise Act 11 & 12 Vic. c. 122, sec. 26, on entry for home use of goods subject to Excise regulations,) a certificate or duplicate of the bill of entry must, in addition to what is required by the Customs, be given in respect of the goods to be removed, and if to be divided and removed into the stock of more than one dealer or other person, a similar certificate or duplicate is required in respect of each. These certificates are to be annexed to the original entry and retained until application for removal, when the officer of Customs indorses the particulars required by the Act on the duplicate, and the remover indorses the name of the person, into whose stock the goods are to be removed, and, on the delivery, the officer of Customs further indorses the day and hour of delivery, and the certificate so indorsed becomes the protecting permit of, and accompanies the goods into the stock of the recipient.

Post Entries are not allowed for saleable goods.

⁽¹⁾ Persons making or subscribing false declarations, are liable to a penalty of £100. Sec. 198.

PAYMENT OF DUTIES, AND WARRANT FOR DELIVERY.

The importer, or his agent, at the time of entry⁽¹⁾ must pay down the duties on the goods, if in London, to the Receiver-General, and, if at the outports, to the collector, or other authorised officer; and the bill of entry, when signed by the proper officer, becomes the warrant for the landing and delivery of the goods, and is to be transmitted to the landing waiter for that purpose. Sec. 56.

Goods removed from any ship or warehouse without entry are by sec. 69, forfeited.

DETENTION OF GOODS FOR UNDERVALUE.

If the value placed by the importer upon goods liable to duty according to value, appear to the officers of Customs less than the actual value, they may detain the goods, but, they are required to give notice in writing, to the person entering the goods, of such detention and of the value as estimated by them. This notice may be delivered personally, or addressed by post to the residence of the person making the entry.⁽²⁾ The Commissioners of Customs have seven days after the detention⁽³⁾ within which to con-

(1) The time of entry is prescribed by section 74, viz., within fourteen days after the ship's arrival, in default whereof the goods may be taken to the Queen's warehouse.

(2) This is a new feature in the law, though not altogether new in practice; the detaining officers having always, in pursuance of the directions of the Board, made similar communications to the parties, whose goods were detained; but, for the more effectually securing the observance of this practice, it has been deemed expedient to make it the subject of express enactment, and to require, that it be done in writing. It should be observed, that the officers in London are authorised by the Board to permit amendments of *ad valorem* entries, where the difference in duty on the goods, does not exceed 10s., or if the goods are not undervalued more than fifty per cent. 20s., and at the outports, where the difference shall not exceed £10, in the latter case, taking a deposit of £2 to abide the Board's decision, and cover any fine they may deem it expedient to impose.

(3) With respect to the computation of days, the former rule was, that where the computation was to be made from an act done, the day of doing it should be included. But, the more recent authorities have established, as

sider the question of value in case of dispute. If they deem the importer's valuation satisfactory, the goods are to be delivered to him on his entry. On the other hand, should they concur in the valuation of the officers, they may retain the goods for the use of the Crown, paying to the importer the value at which the goods were entered by him with an additional five per cent., and returning the duties paid, or, on the application of the importer, may allow him to amend his entry and take the goods, paying the difference of duty, and such fine, if any, as they may deem necessary to check the too frequent practice of under-valuation. This has been deemed a very wholesome provision for the prevention of frauds, which are not unfrequently attempted, sometimes by agents, even without the knowledge of the owner of the goods. To remove all possible suspicion of interest on the part of the officers, the law now deprives them of all direct participation in the proceeds of the sale or of any fines imposed in respect of goods detained by them. A moiety of the surplus, if any, after

the general rule of computation, that, whether the time be counted from an act done or from a certain day, the day shall be excluded *from*, and the last day of the series included *in*, the computation—*Lester v. Garland*, 15 Ves. 248—*Pellew v. Inhabitants of Worsford*, 9 B. & C. 134, 4 Man & Ry. 130; *Wilkinson v. Gaston*, 9 Q. B. 137. In like manner, "where there is given to a party a certain space of time to do an act, which space of time is included between two other acts to be done by another person, both the days of doing these acts ought to be excluded, in order to insure to him the whole of that space of time, per Alderson B., in *Young v. Higgon*, 6 Mee. & W., 49. In all cases, in which any particular number of days not expressed to be clear days, is prescribed by the rules or practice of the Courts, the same shall be reckoned exclusively of the first day, and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, or Good Friday, or a day appointed for a public fast or thanksgiving, in which case, the time shall be reckoned exclusively of that day also. (Reg. Gen. H. T. 1853, No. 174.)

As to reckoning Sunday in other cases, the distinction is between cases, where the party must have done some juridical act on the Sunday, if it had been allowed to count, and those where the Sunday is reckoned silently with other days, no business or act being required on that day. In the former case, Sunday is excluded; in the latter, it is included; (see further, Woolrych on Legal Time, &c., p. 92.) As to the construction of "forthwith," "immediately," "directly," "next ensuing," "until," see Woolrych on Legal Time, 153.

defraying all expenses, including the sums paid on detention, is to be carried to a separate fund, for distribution amongst the most deserving officers, in such proportions as the Commissioners shall deem most suitable, and the other moiety is to be carried to account as duties of Customs. It is anticipated that the great reduction in the number and amount of duties *ad valorem* will tend to curtail this class of cases. Goods detained for under-value are to be disposed of by the Commissioners, for the use of the Crown. Sec. 57.

ENTRY OF GOODS TO BE WAREHOUSED.

If the importer intend to warehouse the goods, without payment of duty, on the first entry thereof, he is to deliver to the collector or comptroller, a bill of entry⁽¹⁾ containing the same particulars as are required by section 55, as far as applicable, together with the name and description of the warehouse, and of the person in whose name the goods are about to be warehoused.⁽²⁾ This entry, when signed by the collector or comptroller, is transmitted to the proper officer of Customs, and becomes the warrant for landing and warehousing the goods.⁽³⁾ Sec. 58.

If the importer enter and even land goods to be warehoused, and then change his mind, as to the disposal of them, he may enter

(1) By section 209, if goods are landed, the duties not being first paid or secured, (for which purpose the entry is an essential) they will be forfeited.

(2) The following is a specimen of an entry of goods to be warehoused:—

ENTRY FOR WAREHOUSE.			
<i>Brewer's Quay.</i>			
Port, <i>London.</i>			
Ship {	<i>Neptune.</i>	<i>Master, Jones.</i>	<i>@ Calais.</i>
	<i>British.</i>		<i>J. Barber.</i>
Marks. Numbers.			
<i>K</i>	$\frac{1}{10}$	<i>Fifty boxes of Cheese to be warehoused at</i>	
		<i>Brewer's Quay.</i>	
Date, <i>12th Oct., 1853.</i>	<i>J. Barber.</i>		

This entry is required only in duplicate—one may be in figures.

(3) Goods removed from any ship, quay, or warehouse, without the authority of the proper officers are, under sec. 86, liable to forfeiture.

them or any part of them, either for home use or exportation, although not yet actually warehoused under the first entry, and on such further entry, the goods will be delivered. Sec. 59.

ENTRY OF FREE GOODS.

The same form of entry as that prescribed for dutiable goods, is, as far as applicable, to be used in respect of free goods; but, so far as regards the goods, may be a transcript of the report, with the addition of a description of the goods, according to the terms under which they are free, and the value of such as had been formerly chargeable with duty at value.⁽¹⁾ This entry, when signed by the collector and comptroller, is transmitted to the landing waiter, and constitutes the warrant for landing and delivery.⁽²⁾ The importer is also required, within fourteen days after the entry and landing of the goods, to deliver to the proper officer of Customs a full account of the goods so landed.⁽³⁾ But at Liver-

(¹) As a guide to the importer in supplying these particulars, the terms under which the quantities, weight, measure, &c., should be stated, will be found in italics on the reference to the tariff given in this work.

(²) The following is a specimen of an entry for free goods :—

ENTRY (FREE GOODS).			
Port, <i>London.</i>		<i>Brewer's Quay.</i>	
Ship	{ <i>Neptune.</i> <i>British.</i>	Master, <i>Jones.</i>	@ <i>Calais.</i>
Marks.	Numbers.	<i>Four cases, Flower Roots, value forty pounds.</i>	
<i>Q</i>	<i>1—4</i>	(Signed)	<i>J. Barber,</i> Importer.
			<i>free.</i>

This entry is required in triplicate—two of which may be in figures. *Vide* Sec. 66.

(³) This account is not for Customs' objects, but to supply the information necessary to the preparation of the statistical returns required by Parliament for commercial purposes. These clauses, as originally drawn, underwent considerable alteration during the progress of the bill through the House of Commons on the suggestion of delegates from various commercial bodies and their representatives in Parliament. Under the pre-existing law, the importer was required to furnish the quantities and values of free goods within twenty-four hours after the landing and examination; but, great importance being attached to the accuracy of these returns in a commercial point of view, the adoption of this section in its present form,

pool and other ports, where all the docks and quays are in like manner subject to the control of the same local authorities, this account is required at the hands of the owner, master, or consignee of the importing ship, or his agent; a penalty of £20 being imposed in case of default. (') Sec. 60.

ENTRY BY BILL OF SIGHT.

When the importer of any goods from want of information as to their precise description, quantity and value, is unable to make the particular entry required in the cases above-mentioned, he may on subscribing a declaration before the Collector or other chief officer of Customs, make an entry by bill of sight, in the form given by the Act or to the same effect (*). Sec. 61.

and the extension to fourteen days, the better to enable the parties to accomplish the work with accuracy, was warmly advocated and at length agreed upon; experience, however, having proved that inconvenience and inaccuracy result from the change, relief has been granted. *Vide* note (') on sec. 142, p. 175.

(') This provision originated under circumstances precisely similar to that referred to in the preceding note. The penalty here imposed is in lieu of two penalties of £20 and £5 imposed by the pre-existing law.

(*) The following is an exemplification of the entry of goods by bill of sight, as commonly used.

SIGHT ENTRY.			
		<i>Brewer's Quay.</i>	
Port, <i>London.</i>	Ship {	<i>Master, Jones, @ Calais.</i>	
	{ <i>Neptune</i>		
	{ <i>British</i>	<i>J. Barber.</i>	
Marks. Numbers.			
<i>P</i>	100	<i>Two Boxes Merchandise.</i>	
	101		
<p>I, <i>J. Barber</i>, importer of the goods above-mentioned, do hereby declare that I have not received sufficient invoice, bill of lading, or other advice, from whence the quality, quantity, or value of the goods above-mentioned can be ascertained.</p> <p>Dated this 12th day of <i>October</i>, 1853.</p> <p>(Signed) <i>J. Barber.</i></p> <p style="text-align: right;">Importer.</p>			

BILL OF SIGHT CONVERTIBLE INTO A PERFECT ENTRY.

This bill of sight is a mere provisional authority for the landing of the goods for examination by the importer or his agent, in the presence of the proper officer of Customs, and the importer is within three days after the landing and before delivery of the goods, to convert the bill of sight to a perfect entry, by endorsing upon it the full particulars of the goods, as in the case of a perfect entry in the first instance,⁽¹⁾ whether for payment of duty, delivery duty free, or for the warehouse⁽²⁾. Sec. 62.

(1) Vide secs. 55, 58, or 60, according to the circumstances.

(2) The endorsement, to perfect a bill of sight, is an enumeration of the goods on the back of the bill, of which the following is an exemplification, adapted to the three kinds of entry.

ENDORSEMENT ON SIGHT ENTRY.	
<i>Brewer's Quay.</i>	
Port, <i>London.</i>	
Ship, { <i>Neptune,</i> <i>British,</i> }	Master, <i>John Jones, @ Calais.</i>
<i>In part of sight.</i>	
P 100 One box	<i>Fifty pounds of figured silk ribbons,</i> Total duty, £25 0s. 0d.
<i>In same box. Cameos not set.</i>	
12th October, 1853.	<i>Value Fifty pounds, free.</i>
<i>In full of sight.</i>	
P 101 One hundred pounds of figured silk ribbons.	
<i>To be warehoused at Brewer's Quay,</i>	
<i>or,</i>	
<i>To be warehoused at Brewer's Quay for exportation only,</i>	
<i>(if such be the intention).</i>	
<i>J. Barber,</i>	
<i>Importer.</i>	
<i>Dated this 13th October, 1853.</i>	

It will be observed, that in the case here given for illustration, from the mixed character of the contents of the packages, and the supposed intention of the importer, the indorsement constitutes three entries, for three several portions, and for three different purposes, at the will of the importer; each of those entries, in consequence of the division of labour for despatch of business in the Long Room, goes to a distinct branch or seat there. Two duplicates, not of the whole indorsement, but of each part, are therefore necessary, except as to that for the warehouse, for which, one duplicate is sufficient. The duplicates, embracing only portions of the whole endorse-

PAYMENT OF DUTY OR DEPOSIT ON SIGHT ENTRY.

In order to entitle the importer to delivery of the goods, under the circumstances lastly explained, the duty must be previously paid, unless a sum sufficient to cover the amount be lodged with the proper officer of Customs. If the sum so lodged, on bill of sight, be insufficient to satisfy the duties payable upon all the goods in any single package landed thereby, no part of the contents of that package can be delivered, without perfect entry for the whole of such contents, and payment of the duty, or a deposit of an equivalent. Sec. 63.

IN DEFAULT OF PERFECT ENTRY HOW GOODS TO BE DEALT WITH.

It is clear that some definite time should be fixed, within which the importer should complete the entry of goods landed by bill of sight.⁽¹⁾ If that be not done within three days⁽²⁾ the goods may be conveyed to the Queen's warehouse.⁽³⁾ And, if the entry be not completed and the duties, with the charges of removal and warehouse rent, be not paid, within a month⁽⁴⁾ after the landing of the goods, they may be sold for payment of those duties and

ment on the original bill of sight should, for identity, each have the general heading as to port, quay, ship and master, and also the date and signature of the importer. This course ought in strictness to be observed in the original also.

(1) When customable goods are landed by bill of sight, under the 3 & 4 Will. 4, c. 52, s. 24, (and on the same principle, under sections 61, 62, 63, and 64 of the Customs Consolidation Act,) and are afterwards removed without payment of duties, and without a perfect entry having been made of them, pursuant to that statute (now, pursuant to the above sections of the new Act,) they are in the situation, for all purposes, of goods illegally unshipped; and all persons, who assist in removing or harbouring them, knowing due entry not to have been made, are liable to the penalties imposed by the 3 & 4 Will. 4, c. 53, s. 44, (now, by section 232 of the Customs Consolidation Act). "*Attorney-General v. Hurel*," 11 Mees. & W. 585.

(2) As to computation of days, see note (7), p. 117.

(3) A discretionary power is given by the Commissioners to the landing surveyors in London to allow an extension of time, on satisfactory cause being shown; but not exceeding six days from the landing, unless with the further permission of the Board.—B.O. 26th November, 1842.

(4) The Board are empowered under sec. 10, to fix the rent on goods in the Queen's Warehouse. For rates of rent, see note (7), p. 129. And as to computation of months, see note (7), p. 284.

charges, or for exportation, if they cannot be entered for home use, or are not worth the duties, and any overplus, in case of sale, shall be paid to the proprietor. The perfected entry for goods provisionally landed by bill of sight or deposited in the Queen's warehouse, must, as already stated with reference to the endorsement,⁽¹⁾ contain all the legal essentials to a valid entry for the due landing of the goods, on pain of forfeiture. Sec. 64.

ENTRY OF RE-IMPORTED GOODS BY BILL OF STORE.

Whatever may have been the origin of the term "Bill of Store," and however inexpressive it may be of the purposes for which it is used, it has acquired, as appears by the requirements of the section under consideration, a distinct statutable signification, and the name is retained as a designation familiar to the mercantile world. By this section re-imported British goods are, as regards duty and the general conditions of their admission into the United Kingdom, to be dealt with as foreign. They may, however, be entered as British. 1st, provided, they are re-imported within ten years after their exportation; and 2ndly, provided, they have not changed hands, or, in other words, have continued the property of the original exporter, until the time of entry. In either case the entry is called a bill of store.⁽²⁾ To this general

⁽¹⁾ Vide sec. 62, and note ⁽⁷⁾, p. 122.

⁽²⁾ The course to be pursued in this case is, for the reimporter to give to the searcher the particulars of the goods exported and reimported, and request a bill of store, which the searcher will furnish in the following form:

BILL OF STORE.

Port of London.

In the *Mary* (Export ship), master, *R. Taylor*, for *Calais*.

Richard Johnson, *British manufactures, being haberdashery.*

Exporter. *Value, sixty pounds.*

Z *5th Sept., 185 .*

No. 44, a case.

The above-mentioned goods were shipped; *one package*, mark, and number, as permargin, is now returned in the *Neptune*, *J. Jones*, master, from *Calais*, as the merchant is ready to make oath.

(Signed) *E. Scanlan*, Searcher.

Searcher's Office, *15th Oct., 1853.*

privilege of re-importation of goods as British, there are some exceptions; the following goods being on re-importation deemed in all respects foreign.

Corn, grain, meal, flour, and hops.

Goods for which any drawback of Excise shall have been received on exportation, unless by special permission of the Commissioners of Customs and on repayment of such drawback.

Goods for which a bill of store cannot be issued, as required by the Commissioners, with the exception, but, by their permission, of remnants of British goods. Sec. 65.

GENERAL CONDITIONS AS TO ENTRIES.

On the entry of goods in every instance, duplicate entries are to be delivered by the party making entry, the number required (') being in the discretion of the officer of Customs. For the greater facility of transcription, sums and numbers may in those duplicates be expressed in figures. Sec. 66.

The re-importer endorses the bill, as follows; and signs the declaration at the foot in the presence of the Collector.

ENDORSEMENT ON BILL OF STORE.

Ship { *Neptune,*
 British,

J. Jones, @ Calais.

R. Johnson, Importer.

Z

No. 44. *One case of haberdashery, being British goods returned, as per bill of stores.*

I, *Richard Jones, of No. 10, Finsbury Square*, importer of the goods above-mentioned, do hereby declare that they are of British manufacture, and that I was the proprietor thereof at the time of exportation and of importation; and that the same have not been sold or disposed of to any other person.

(Signed) *R. Johnson.*

Signed and declared before me, }
this 3rd day of October, 1853 }

A. B., Collector.

The bill of store thus indorsed, is sent to the landing officer, who, if he finds the goods correspond with the endorsement, delivers them. When a bill of store cannot be taken out, it may be dispensed with, on declaration, that the goods have not changed hands, if the value do not exceed £50.

(2) The number of duplicates at present required in practice varies as stated in the notes on each section relating to entries, viz., Secs. 55, 58, 60 and 62, pages 116, 119, 120 and 122.

Any person entering goods and wilfully failing to comply with the regulations as to entry is liable to a penalty of £20. Sec. 67.

No entry or warrant for the landing of any goods will be valid, unless it properly describes the goods by the denominations and with the characters and circumstances, according to which such goods are charged with duty or may be imported whether for home consumption, for warehousing, or for exportation only ⁽¹⁾. Sec. 68.

Goods concealed in packages, landed in pursuance of any entry, are, with the other contents of the package, forfeited, as also, goods taken out of any ship or warehouse without entry. Sec. 69.

PASSENGERS' BAGGAGE.

No entry is required in the case of passengers' baggage—which may be examined, landed and delivered in accordance with the Customs regulations; ⁽²⁾ and (by section 86,) under the care or authority of the proper officers, in default of which it will be forfeited. But, if any prohibited or uncustomed goods be found concealed in such baggage, either before or after landing, they will, together with the other contents of the package, be forfeited. ⁽³⁾ Sec. 69.

⁽¹⁾ The landing officers in London are authorised by the Commissioners to permit entries to be amended in cases of accidental misdescription or omission, where the difference in duty consequent thereon does not exceed 10s., in other cases the Board's sanction is required. See also note ⁽⁷⁾, p. 117.

⁽²⁾ Although the exemption of baggage from entry prior to examination, landing and delivery, has been, in practice, permitted by the Board of Customs, it is, by the above section, for the first time recognized by statute. The object of this distinction in favour of passengers' baggage over goods generally is to promote the convenience of travellers, to whom the speedy delivery of their wearing apparel, &c. is an object. But, as baggage without proper supervision is a convenient vehicle for smuggling, it is liable, in common with other goods, to that restriction, which interdicts removal from the ship, quay, or landing place, without the presence or authority of the officers, (*vide* sec. 86;) and, though in strictness of law, baggage loses its claim to this exemption, if it contain other goods, a liberal discretion is given by the Board to the officers, so that, except where the dutiable contents are excessive, or may be fairly regarded as merchandise, provision is made for payment of duty at the landing place, without obliging the traveller to make due entry.

⁽³⁾ Any person denying, on being questioned by the proper officer, the possession of foreign goods, afterwards found on his person or in his pos-

SURPLUS STORES.

Surplus stores not merchandize, nor excessive, may, by permission of the officers of Customs, be entered for private use, subject to the same rules and duties as merchandize, or may be entered and warehoused by the master, owner, purser, or other officer, or by any passenger of the ship, to whom they belong for future use as ships' stores, although not legally importable as merchandise.⁽¹⁾ Sec. 70.

session, is liable to a penalty of treble the value, as well as the forfeiture of the goods. Sec. 229.

(1) Goods brought as stores are, by the general rule, applying to restrictions on importation, undistinguishable from other goods. Hence, but for the relief which may be afforded under this section, they would be placed in a position of some difficulty, for, it will be seen on reference to section 74, that when goods are not entered and landed within the prescribed time after arrival, they may be placed under surveillance on board the ship, or removed by the officers to the Queen's Warehouse, and, as is generally the case with stores, if in illegal sized packages, they would not be entitled to entry, but, under the smuggling clauses, would be liable to forfeiture. Therefore, to remedy this inconvenience, without disturbing the general rule of law, a discretion is here given to the officers, to permit the entry of stores, if not excessive, subject to the same duties and regulations, as merchandize. If not so entered and landed, the officers may, by sec. 74, remain in charge of goods on board the ship, and detain her until the expense is paid, or may remove them to the Queen's Warehouse; and by sec. 48, p. 108, if he allow them to remain on board the ship, which is commonly permitted, where she is likely to require them in due course for another voyage outwards, he may also place them, for greater security, under seal. It is obvious, that such regulations are indispensable, inasmuch as stores are usually in convenient packages for conveying ashore, and the discretion is properly vested in the Customs, as a general permission to bring illegal sized packages, as stores, would be open to abuse, and form an available pretext for bringing excessive quantities of goods professedly as stores, in packages adapted for smuggling.

Under the pre-existing law, ship's stores were only permitted to be warehoused for the use of the same ship; they may now be warehoused as ship's stores generally, and applied to the use of any ship, this alteration having been made in conformity with the relaxation granted by B. O. 1835. Sections 136 and 138 contain special provisions as to stores of spirits and tobacco for Her Majesty's ships.

ENTRIES BY AGENTS, &c.

In the agency ports⁽¹⁾ as they may be designated, the cense⁽²⁾ alone will not enable the agent without the authority of the party interested to transact any business relating to the clearance of any ship, goods, or baggage. If any person not being licensed or indeed any person whether a licensed agent or not, or any duly appointed clerk of such agent shall, unless authorized by the proprietor or consignee of the goods, act as such, in any of those ports, he is liable to a penalty of £20.

But, no such penalty is to attach to persons acting under the direction of the Dock Companies; nor to persons authorized by law to pass entries; nor to merchants, importers, or consignees, acting on their own account; nor to any clerk or servant exclusively employed by any mercantile house or firm. Sec. 71.

Any person applying to, on behalf of any other person, an officer of Customs to transact business may be required to produce a written authority from the principal, without which the officer may refuse to transact such business. Sec. 72.

CUSTOMS' SAMPLES.

The last provision of a miscellaneous nature, with relation to entries, is that, which empowers the officers of Customs to take samples of goods either for ascertaining the duties or for such other purpose as may be authorized by the Commissioners of Customs⁽³⁾. Sec. 73.

TIME FOR ENTERING AND LANDING IMPORTED GOODS.

It would be attended with the greatest possible inconvenience to the Customs service, if some time were not prescribed, within which goods imported should be entered and landed. The time prescribed is fourteen days⁽⁴⁾ from the vessels' arrival, or such

(1) The power to appoint at what port agents shall be licensed is conferred by section 15.

(2) The power to grant licenses is conferred by section 16.

(3) The regulations by which importers or proprietors may take samples are prescribed by section 105, p. 151.

(4) As to computation of days see note (7), p. 117.

further period as may be allowed by the Commissioners of Customs; ⁽¹⁾ and, in default of entry and landing within the time prescribed, the goods may be conveyed by the officers to the Queen's warehouse. Sec. 74.

If the principal portion of the cargo of a vessel be discharged within the time allowed, the officers may in like manner convey the residue to the Queen's warehouse ⁽²⁾. So also at any time after the arrival of the ship, although the fourteen days may not have expired, small packages remaining on board, unentered, may

⁽¹⁾ Provision is made by the last paragraph of this section for entry by the master within 48 hours under certain circumstances, *vide* pp. 131-2, and note ⁽¹⁾.

⁽²⁾ The rents per week chargeable on goods in the Queen's warehouse, and the regulations relating thereto, are as follow :—

Butter, per firkin, 1*d.*—baggage and small packages of presents, &c. viz., boxes, kegs, jars, &c., empty casks, bundles of mats and empty sacks, samples, wine, spirits and other liquids not exceeding one gallon per package 2*d.*; wine, spirits, or other liquids, exceeding one gallon, and not exceeding twenty, per package, 4*d.*; exceeding twenty gallons, per package, 6*d.*; cheese, loose, per ton, 2*d.*; other packages and goods not measuring more than sixty cubic feet, per package, or loose, per parcel, 4*d.*; more than sixty, and not above eighty cubic feet, per package, or loose per parcel, 8*d.*; more than eighty and not above one hundred cubic feet, per package or loose, per parcel, 1*s.*, and for every ten cubic feet additional, 6*d.*; packages of wines, spirits, cordials, and other liquids, being stores of naval officers, or surplus stores of merchant ships deposited for security of duty, under two gallons, *nil*; two gallons and under six, per package, 1*d.*, six, and upwards, per package, 2*d.*; packages and parcels of dry goods, not requiring one cubic foot of space, *nil*, one foot and not above two, per package, or parcel, 1*d.*, exceeding two, per package, or parcel, 2*d.* per week. Where the same party deposits several packages or parcels of surplus stores, making together two gallons or upwards, or requiring one cubic foot of space, or upwards, rent is chargeable, though each may be less than two gallons, or one cubic foot.

Remains of stores, sea stock of naval officers paid off Her Majesty's ships are exempt for twelve months.

All goods, except baggage or stores, are allowed three clear days rent free.

Passengers' baggage, and surplus stores may remain a week rent free, after which, if not cleared, rent is payable from the day they were deposited.

If the Board's orders for the delivery of goods in the Queen's warehouse, seized or detained, be not complied with, and the goods taken away by the parties within fourteen days, rent is thenceforth chargeable. Derelict goods in the Queen's warehouse are free of rent, until claimed or otherwise disposed

be conveyed to the Queen's warehouse to remain there for entry during the remainder of the fourteen days, and if the duty and charges attendant upon such removal together with the warehouse rent, be not paid within three months ⁽¹⁾ afterwards, that is, after the expiration of the fourteen days or such further period as may have been allowed by the Commissioners, the goods may be sold and the proceeds applied, first to the payment of the freight and charges; next, of the duties; and the overplus, if any, paid to the owner of the goods. But, if the goods be of a perishable description, the sale may take place immediately and the proceeds be applied in like manner. *Ib*

TIME OF ENTRY, &c., IN CASES OF QUARANTINE.

In case of the ship's liability to perform quarantine, the time for entry and landing is to be computed from the day of her release from quarantine. ⁽²⁾ *Ib*.

of, if sufficient accommodation can be afforded and the revenue at no expense; but if claimed and the ownership allowed, rent is chargeable per scale for surplus stores, from the time of deposit until ownership established and thenceforth, if not cleared, at the higher rate in the scale on goods not being stores. Fractions of weeks not exceeding three days are not charged, but if exceeding three days a week's rent is charged.—G.O. 5th December, 1851.

⁽¹⁾ Passengers' baggage is allowed by the Board to remain six months, and surplus stores, twelve months.

⁽²⁾ The quarantine laws were consolidated by 6 Geo. IV. c. 78, of which the following is a brief abstract.

Sec. 1. Repeals all the former quarantine acts.

Sec. 2. Declares what vessels are liable to quarantine.

Sec. 3. Empowers the privy council to order vessels from America or the West Indies, when yellow fever or other infectious distempers prevail in those countries, to anchor at places appointed by the Commissioners of Customs for enquiry as to the health of the crew, before entering any port in the United Kingdom.

Sec. 4. Authorises the Lord Lieutenant, or other chief governor of Ireland, by order in council and proclamation, to appoint places of quarantine.

Sec. 5. Vessels and goods subject to quarantine are to be governed by regulations under orders in council.

Sec. 6. The Privy Council may make such orders, notified by proclamation in London Gazette.

Sec. 7. Masters of vessels in which infectious disease occurs within or

WHEN THE MASTER MAY ENTER AND LAND GOODS.

If there be a specific contract on the face of the bills of lading for the discharge of the ship's cargo at any time within forty-eight hours after report, and the owner, importer or consignee fail to

without the straits of Gibraltar, are to report it to the Officer of Customs who is to communicate it to the Board in London, to guard against contagion, and the master is to obey directions under penalty of £100.

Sec. 8. Masters of vessels liable to quarantine are to hoist certain flags and signals, on meeting other vessels at sea, or within two leagues of the United Kingdom, or the Channel Islands, under a penalty of £10.

Secs. 9, 10, 11 and 12. Do not concern the Customs.

Sec. 13. The pilot or master on board any vessel, whether subject to quarantine or not, is to "bring-to" on request of officers of Customs, authorized to act, for enquiry, under a penalty of £100.

Sec. 14. The Superintendent or chief officer of Customs at any port may go within a convenient distance of any vessel and ask whether she be infected, and the master is to answer truly under penalty of £200.

Sec. 15. Authorizes the use of force to compel vessels subject to quarantine to repair to appointed places. Masters of vessels that have touched at infected places, or knowing any person on board to be infected, and omitting to disclose the fact, or to hoist the prescribed signal, is to forfeit £300.

Sec. 16. The master of any ship subject to quarantine is, on arrival at the place of its performance, to deliver his bill of health and manifest to the officer of Customs, under pain of forfeiting £100.

Sec. 17. Penalty on masters or others quitting ships subject to quarantine, six months' imprisonment and £300.

Sec. 18. Persons under quarantine conducting themselves refractorily, may be restrained by authorized officers of Customs.

Secs. 19 and 20. Do not concern the Customs.

Sec. 21. Officers of Customs embezzling goods under quarantine, to lose office and forfeit £200. Officers neglecting their duty, or permitting persons or vessels to depart without authority, or giving false certificates, are guilty of felony; and officers wilfully damaging goods under quarantine, are liable to £100 damages and costs.

Sec. 22. Provides for the entry of vessels released from quarantine.

Sec. 23. Empowers the officer of Customs to release vessels after quarantine.

Sec. 24. Authorizes the opening and airing of goods by the superintendents of quarantine or officers of Customs, and on proof thereof, the release of goods.

Sec. 25. Forging of certificates required by order in council, felony.

Sec. 26. Penalty on persons unshipping, landing, receiving or secreting goods, articles, letters, &c., from vessels liable to quarantine.

Sec. 27. Her Majesty, in certain cases, may prohibit infected vessels under

enter and land the goods accordingly, the master is empowered on the expiration of such forty-eight hours to enter and land the goods⁽¹⁾. *Ib.*

DETENTION OF IMPORTING SHIP FOR CHARGES OF WATCHING.

If from inexcusable dilatoriness in the discharge of the cargo of any ship, the Crown be put to expense, it is reasonable, that some means of indemnity should be afforded, and for this purpose the detention of the ship is authorized, until the charges incurred by the Crown (after the lapse of the fourteen days) in watching and guarding the ship and cargo be paid⁽²⁾. A new provision, however,

100 tons from sailing from the United Kingdom, or the Channel Islands, until sufficient bond, with certain conditions, be given by the master.

Secs. 28 and 29. Power to consuls and others to administer oaths—false swearing, or procuration thereof, to be deemed perjury.

Sec. 30. Commissioners of Customs may appoint superintendents of quarantine, whose duties may, in certain cases, be performed by officers of Customs.

Sec. 31. Publication of orders in Council.

Secs. 32 and 33. Recovery and application of penalties.

Sec. 34. The law officers may stay proceedings by officers of Customs.

Secs. 35, 36 and 37. Relate to proofs in suits for penalties—defendant's pleas, costs of suit, and limitation of actions.

(¹) It is obvious that the master could not in the majority of instances, for want of information, pass a perfect entry, and the Commissioners have permitted in such cases imperfect entries, which are necessarily dealt with on the same principle as sight entries, which must afterwards be perfected, in default of which, the goods are liable to forfeiture, under sec. 64. These provisions are somewhat analogous to those contained in 9 & 10 Vic. cap. 399, made perpetual by 10 & 11 Vic. c. 200 (London Legal Quays Acts,) under which, the owner or master of any ship lying alongside any of the legal quays in London, may, at the expiration of forty-eight hours after report, enter and land the goods. This new provision was introduced into the act on the suggestion of some of the ship owners in London, during its progress through parliament, and consequently with little time for consideration. It will, however, be observed, that this privilege, unlike the former, is neither absolute, nor confined to London, nor exercisable there any more than at any other port or place, without the sanction of the Commissioners, so that, should any doubt arise as to the policy or justice of the measure, its operation may be restrained or extended, as circumstances may require, either with reference to localities or conditions.

(²) As it is the duty of the importer to enter and land the goods, it may, on a superficial view, appear arbitrary to detain the ship, instead of attaching

is here introduced in favour of the merchant by fixing the maximum charge for such service at 5s. per diem. Sec. 75.

The above charge, irrespective of the expense, to which parties are also liable, of removing the goods to the Queen's warehouse, should that become necessary.

DAMAGED GOODS.

Upon a similar principle of justice, where dutiable goods have been damaged on the voyage, an abatement should be made to the importer or consignee; but, to entitle himself to this abatement he must comply with three requisites of the Act.

1st. the claim must be made on the first examination of the goods ;⁽¹⁾

2ndly. it must be made in the manner and form prescribed by the Commissioners ;

3rdly. satisfactory proof must be given, that the damage was sustained after the shipment, and before the landing, of the goods.⁽²⁾ Sec 76.

GOODS DERELICT, &c.

In the case of goods derelict, jetsam and flotsam, with respect to which it is generally impossible to ascertain the place

the goods, and thus hold the owner responsible to the Crown for the laches of the importer or consignee. A moment's reflection will, however, show that great injustice would result from a reversal of the course adopted. Suppose for instance, that A, an importer, passes his entry immediately after the report of the ship, and is desirous of landing his goods, but, that happening to be at the bottom of the ship's hold, they are inaccessible, until those of B, or any number of consignees, which are stowed over them, are discharged; and that such discharge is protracted, until the prescribed time expires, and expenses begin to accrue. It is obvious, that to charge these expenses against A, in addition to the inconvenience he has already sustained by the procrastination of B, and the other consignees, would be unjust; but the ship-owner has his remedy against the negligent parties for any loss he may sustain at their hands, and therefore the law works no injustice upon him, whilst the contrary course would punish the innocent for the guilty.

(1) In practice, a latitude of four days is allowed by the Board in such cases.

(2) As to remission of duties on goods in or for the warehouse, *vide* secs. 96 & 97.

of their manufacture, growth or production, the Act adopts the presumption, that they are foreign and liable to the duties payable on foreign goods of the like description: but this presumption may be rebutted by satisfactory evidence of their being of the growth or manufacture of some country, whence goods may be admitted at less than the foreign duty or altogether free: and if liable to duty, that they are (as in the case of damaged goods) entitled to an abatement.⁽¹⁾ Sec. 76.

(¹) The law as to the rights of owners, the Crown, and others in respect of wrecked goods is, except as to Scotland, embodied in the 9 & 10 Vict. c. 99, by which the antecedent Acts, viz., 12 Anne stat. 2 c. 18, 26 Geo. 2 c. 19, 49 Geo. 3 c. 122, 53 Geo. 3 c. 87, and 1 & 2 Geo. 4 c. 75 were repealed.

Scotland by the new Act was exempted from its provisions, and doubts were entertained whether the pre-existing Acts were not repealed as to Scotland, in which case that part of the kingdom would have been out of the pale of the wreck and salvage laws, to remedy which, an explanatory clause was introduced into the Act of 12 & 13 Vict. c. 95 sec. 14, by which the repeal was declared not to extend to Scotland, and that clause is saved by this Consolidation Act, *vide* section 358 and Schedule A, so that wreck and salvage in Scotland are governed by laws different from the general law with respect to the other parts of the kingdom. Under 9 & 10 Vict. c. 99 sec. 4, Lords of Manors and others claiming wreck or derelict goods must give notice of claim to the receiver of Droits, residing within or nearest to the manor or district in which the right is claimed. By section 5 persons who find or are possessed of such goods must make a written report thereof to the nearest receiver, or, where there is none, to the collector or comptroller of Customs, and place them at the disposal of those officers, under penalties. By section 6 the receiver or officer of Customs, first obtaining a Magistrate's warrant, may search for, seize, and detain any goods not reported, and will be entitled to salvage on goods so seized, and every Customs officer is required to report such seizures to the nearest receiver. By section 7 every receiver making a seizure or receiving such report is bound, within 48 hours, to send a correct account of them to the chief officer of Customs of the nearest port, and, if the value amounts to £20, a report is also to be made to the Secretary of Lloyds to be by him posted up for inspection. Section 8 to 13 contains provisions relating to the disposal of the property as between owners, Lords of Manors, and the Admiralty. By section 14 Justices, Mayors, other public officers, and officers of Customs and Excise, may summon persons to aid shipwrecked vessels, and impress boats belonging to British ships, and waggons, carts and horses near the place. By section 15, to prevent confusion amongst salvors, they are required, in the first place, to conform to the directions of the owner or master of the vessel. Secondly, to those

MODE OF ASSESSING DAMAGE.

The damage is to be assessed in each of the foregoing cases by the officers of Customs, if competent to the task, but if not, or if the Commissioners of Customs or the principal officers of the port entertain any doubt upon the subject, they may take the opinion of any two disinterested merchants as to the extent of the damage, whereupon they may make an abatement not exceeding three-fourths of the duty originally chargeable on the goods. Sec. 76.

GOODS NOT ENTITLED TO ABATEMENT FOR DAMAGE.

No allowance, for damage shall be made on coculus indicus, nux vomica, rice, guinea grains, lemons, spirits, corn, grain, meal and

of the receiver, and in the absence of the owner, master, or receiver, to those of the following officers:—first, the officers of Customs or Coast Guard; next, to those of the Excise; thirdly, to those of the sheriff or his deputy, and lastly, of any Justice of the peace, under penalty of £50 for disobedience. By section 17, owners or occupiers of lands or piers adjoining the coast are bound under special penalties to allow such officers and persons to pass and repass over their lands, (if there be no road equally convenient) for saving wrecks cast ashore, or the lives of those on board; but compensation is to be made for damage, the amount of which is to be ascertained in the same manner as claims for salvage. The other sections relate to the proceedings in respect of wreck and salvage, particularly affecting the Customs.

It may here be observed with reference to the antiquated terms *derelict*, *jetsam*, *flotsam*, &c., used in this section, that they have a recognised legal meaning, for which reason they are retained.

Derelict is anything *forsaken* or left, or wilfully cast away. 2 *Nels. abr.* 903.

Jetsam is where a ship is wrecked and the goods are cast into the sea, and there *sink and remain under water*. 1 *Bl. Com.* 292.

Flotsam is where a ship is sunk or cast away, and the goods are found *floating* upon the sea. 5 *Rep.* 106.

Wreck signifies such goods as after shipwreck are cast upon the land by the sea and left there within some county, for they are not wrecks so long as they remain at sea in the jurisdiction of the Admiralty. 2 *Inst.* 167.

Lagan is another term occasionally used with reference to goods left at sea, though not mentioned in the present section. It signifies goods lying or sunk in the sea, and tied to a cork or buoy, in order to be found again. 5 *Rep.* 106. *Lagan* is used in old authorities to denote the right of the Chief Lord of the Fee to take goods cast on shore by the violence of the sea, &c. *Bracton lib.* 3 *cap.* 2.

flour, opium, sugar, cocoa, oranges, tea, coffee, pepper, tobacco, currants, raisins, wine and figs. Sec. 76.

IMPORTERS CLAIMING BENEFIT UNDER CERTIFICATES OF PRODUCTION.

In order to entitle any goods imported from the British Possessions abroad, to any benefit accruing from the distinction (except as to goods from the Presidencies of Bengal, Madras, and Bombay,) certificates of the place where they were taken on board, and of the due clearance of the ship from such place, with an account of the goods, must be delivered, before entry, to the collector or comptroller of the port of importation. These certificates must be procured at the place of shipment from the proper officer there. Sec. 77.

TREASURY RULES AS TO CERTIFICATES OF PRODUCTION.

The Commissioners of the Treasury are empowered to modify or extend the provisions of the foregoing section, by requiring certificates of production upon the exportation of goods from any British possession or other place, embracing therefore the exceptional one with reference to India if necessary, and to frame regulations with regard to such certificates generally. By this section goods, unaccompanied by certificates when required, are expressly deemed to be foreign and liable to duty as such.

For the information of the public, orders of the Treasury, in such cases, are required to be published in the London and Dublin Gazettes three times within three months after their date. Sec. 78.

CERTIFICATES OF PRODUCTION OF BRITISH POSSESSIONS' SUGAR AND SPIRITS.

As the differential duties in favour of British Possessions' sugar will cease on the 5th of July, 1854, by their assimilation under the Tariff, these provisions, as respects that article, will become inoperative by that time.

SUGAR AND SPIRITS.

On the importation into the United Kingdom, of sugar or spirits, purporting to be the produce of British America or the Mauritius, the master of the importing ship is required to deliver to the collector or comptroller, a certificate, from the proper officer of the port of shipment, as prescribed by section 176, of proof of produce, place of production and quantity and quality, with the number and denominations of the packages and the names of the ship and master. Sec. 79.

EAST INDIA SUGAR.

The certificate prescribed by section 178, is required, testifying that declaration had been duly made, that such sugar was British Possessions' produce. Sec. 80.

BRITISH INDIA SUGAR, WAREHOUSED AT THE CAPE.

The limits of the East India Company's Charter, by the interpretation clause, section 357, include the Cape of Good Hope and all places and seas eastward thereof to the Straits of Magellan. Sugar the produce of British possessions within those limits, imported directly into the Cape of Good Hope, accompanied by the certificate of production and warehoused there according to colonial regulations, may be admitted into the United Kingdom at the same rate of duty as if imported direct from the place of production, if accompanied by a certificate from the proper officer of Customs at the Cape, setting forth the particulars of the importation, the warehousing there, the substance of the certificate of production received there and the exportation thence. This certificate must be delivered by the master to the collector or comptroller of the port on arrival in the United Kingdom. Sec. 81.

PRODUCE OF THE CHANNEL ISLANDS.

It will be seen on reference to the interpretation clause, section 357, that the Islands of Guernsey, Jersey, Alderney, and Sark, are to be understood by the term "Channel Islands," and by which they are designated throughout the Act.

The following goods may be imported into the United Kingdom from the Channel Islands free of Customs duties.

Goods, the growth of the Channel Islands.—Goods manufactured there from materials, the growth of those Islands.—Or, from materials, not dutiable in the United Kingdom.—Or, from materials, the duty on which has been paid in the United Kingdom, and upon which no drawback has subsequently been granted.

But, such goods are chargeable with an amount equal to any Excise duties payable on the like kind of goods, the produce or manufacture of that part of the United Kingdom⁽¹⁾ into which they are imported, or upon any materials from which they are manufactured. Goods manufactured in the Channel Islands from other materials are, on importation, deemed foreign. Sec. 82.

By section 157, goods liable to any duties of Excise cannot be unladen without the authority of the officers of Excise.

To entitle goods, the produce of any of those islands, to the benefit of the distinction, the master of the importing ship must, before entry, deliver to the collector or comptroller of the port of importation a certificate of produce from the authorities of the island, for which, by section 180, provision is made. Sec. 83.

The like course must be pursued on the importation of wine the produce of any British possessions abroad, for proof of the produce of which, by sec. 179, provision is made. Sec. 84.

UNSHIPPING AND EXAMINING GOODS.

Thus far the Statute has prescribed the course to be adopted with respect to merchandize on arrival at the port of destination, thereby laying the foundation for the provisions, which next invite attention, viz.:—those which relate to the unshipping, landing, and examination of goods, operations necessarily devolving on the merchant, save as to the supervision of the Customs' officers, and such for the most part as would be indispensably incident to the importation and disposal of goods, if the machinery of the Customs had no existence. Under any circumstances, it rests with the

⁽¹⁾ The duties of Excise vary in England, Scotland and Ireland, hence this distinction. (*Vide*, note ⁽¹⁾ on countervailing duties, p. 288—9.

importer to unship and land his own goods. If entered for home use, the officers are always ready to examine and deliver them without charge. If entered for the warehouse, it is by the importer's own choice, that they are so deposited, and the sorting, lotting, sampling, &c., which follow, are, irrespective of the Customs, essential to the sale and disposal of the goods by the owner, and the same observation equally applies to weighing, marking and numbering. These operations form the basis of account between him and the warehousekeeper, and are necessary for his own information, as to the goods, and for the preservation of their identity, until he has occasion to dispose of them. No charge is imposed for the supervision of these operations by the Customs officers, nor is any delay created by it, the account for the Crown being taken concurrently with that of the warehousekeeper, and this account is solely for the security of duties due, but, deferred at the election of the importer, for his own convenience.

EXPENSE OF UNSHIPING, LANDING, &c.

The expense of unshipping, carrying, landing, bringing to the place of examination, weighing, opening, repacking, bulking, sorting, lotting,⁽¹⁾ marking, numbering, and depositing of goods, generally is to be borne by the importer, as also therefore the expense of piling, sorting, framing, and placing timber or wood goods liable to duty by measurement, in such manner as the Customs may deem necessary for taking the account. Where timber is measured in bulk it is to be measured to the full extent of the pile, and without any allowance for interstices; but, battens, boards, deals, and planks, exceeding twenty-one feet in length may be measured by the piece, and the account of them taken separately. Sec. 85.

GOODS LANDED CONTRARY TO LAW, FORFEITED.

Goods are liable to forfeiture in any of the following cases:—

If removed from any ship, quay, &c., previous to being examined

(¹) Under section 90, the Commissioners may authorise the bulking, sorting, lotting, &c.

by the Customs officers, unless under their care or authority.—If carried into a warehouse, though entered to be warehoused, unless under the care or authority of the Customs officers.—If carried to the warehouse by any persons, or by any other than directed by the Customs officers. Sec. 86.

Any person concerned in such illegal removal is, under section 233, liable to a penalty of treble the value of the goods, or £100, at the election of the Commissioners.

LANDING ACCOUNT OF GOODS WAREHOUSED.

On the entry and landing of goods to be warehoused or within such period as shall be prescribed by the Commissioners, the landing waiter is to take a particular account of such goods,⁽¹⁾ either at the quay, where they have been landed, or in the warehouse, if they be goods of which the account is permitted to be taken there.⁽²⁾ He is also to cause each package to be marked with the particulars of its contents and to record in a book under the name of the import ship and of the person in whose name the goods are entered, the marks, numbers and contents of each package—the description of the goods—and the warehouse, and place in such warehouse, where they are deposited, and certify finally that the entry and warehousing of the goods is complete.⁽³⁾ If the goods are removed from the proper place of examination before they are examined and certified, they are to be deemed goods not duly entered or warehoused, and are forfeited. Sec. 87.

Under section 233, any person concerned in such illegal removal is liable to a penalty of treble the value of the goods, or £100, at the election of the Commissioners.

(1) The officer may, under section 73, take samples of the goods.

(2) Vide section 90.

(3) This official certificate will operate as a safeguard against the forfeiture of the goods described therein; and, on the other hand, any goods which may be found unprotected by such certificate, will be liable to forfeiture, as the natural consequence of having been either surreptitiously landed and not duly warehoused, or not brought to account either by design, or through the negligence of the importer or his agents.

DUTIES ON WAREHOUSED GOODS GOVERNED BY LANDING ACCOUNT.

When the goods come to be delivered upon due entry,⁽¹⁾ the duties are to be ascertained and paid according to the account taken on the landing and warehousing, without abatement, except as subsequently provided.⁽²⁾ Sec. 88.

DEPOSIT OF WAREHOUSED GOODS.

All warehoused goods are to be deposited in the packages in which they are imported. But, goods permitted to be skipped on the quay,⁽³⁾ or sorted, packed or repacked in the warehouse⁽⁴⁾, may be deposited in the packages, in which they were, at the time of taking the landing account; and if they be not deposited—or, if any alteration be made in the goods—or, in the manner in which they are packed,—or, if they be removed from the room in the warehouse, in which they were deposited, without the sanction of the officers of Customs, except for delivery under the proper warrant, they shall be forfeited. Sec. 89.

Under section 232, persons concerned in so dealing with the goods are liable to a penalty of treble the value or £300, at the election of the Commissioners.

DIRECTIONS OF COMMISSIONERS FOR DEALING WITH GOODS AND TAKING ACCOUNT IN THE WAREHOUSE.

The Commissioners of Customs may give directions as to what goods may be skipped on the quay, or what may be sorted, packed or repacked in the warehouse, or of which the account

(¹) As to form of entry, *vide* p. 153.

(²) The exceptions will be found in sections 97 and 129 which have reference to accidental loss, and sections 110 and 112, which, permit the assessment of duty on the delivery, weights, &c., unless the deficiency, if any, arise from unfair means.

(³) The term "skipped on the quay," means the temporary transference of goods from one package to another, for the purpose of taking the tare of the import cask or package, or for repairing it if necessary.

(⁴) The permissive power conferred by the Board under section 90.

may be taken in the warehouse, and may prescribe the time and conditions.⁽¹⁾ Sec 90.

PRACTICAL INSTRUCTIONS FOR ENTRY INWARDS.

Thus far, the provisions relating to entry, landing and warehousing as enacted by the Legislature have been stated ; but the act being silent as to the practical details to be observed in passing entries, &c., some remarks as to these may be worthy of attention.

As soon as the master of the importing ship has delivered his report to the collector, the operation of the importer or consignee may properly be said to commence. The report contains, as already mentioned in p. 109, *et seq.*, an account of the cargo, made out by the master, or, the broker of the ship for him, from the bills of lading, &c., which accompany the ship, and the importer or consignee in due course usually receives duplicates of the bills of lading, invoices or such other information or advice relative to his portion of the cargo, as will generally enable him to prepare his entries, or in case of inability in the first instance to perfect them, the bill of sight will be available. With reference to goods already imported and warehoused, the proprietor possesses by the process already described all necessary particulars, so that, whether he has to enter his goods from the ship, for home use, or for the warehouse, or, being warehoused, for delivery, he is in a situation to pass his entry, and all he has to do, so far as the Crown is concerned, is as follows ; 1st. To attend at the Custom House⁽²⁾ and deliver his entry in the form or to

(1) *Vide* also sections 85 and 105 as to bulking, sorting, repacking, &c.

(2) If in London, he will go to the Long Room of the Custom House, for this purpose, and deliver his entry according to the nature of the goods, at one of the following seats :—

At the first branch, if for dutiable goods generally, from the ship.

At the second branch, if for goods from the warehouse.

At the third branch, if for tea or coffee.

At the fourth branch, if for free goods, or for the warehouse, or by bill of sight.

At the outports, the entries are usually delivered at one particular seat in the Custom House, generally too well known to require being mentioned here, or, at all events, easily ascertained on a moment's enquiry.

the effect required by the Act with the necessary duplicates as previously explained.

2ndly. If the goods be dutiable, to pay down the duties, if in London, at the Receiver General's office, at the west end of the Long Room, if at an outport, to the collector of Customs or receiver there.

On entering goods, free of duty, or dutiable goods to be warehoused, the importer receives an order at once, for the landing and examination of the goods, and proceeds with it to the station named in his entry, unships and lands the goods and when passed by the officers there, takes them into his own care or warehouses them according to the entry.

On the entry of dutiable goods for home use, from the ship, the warrant for delivery is transmitted from the Customs to the proper officer at the station ⁽¹⁾ where the importer lands the goods, which, when examined, are forthwith delivered to him.

When, for want of information, the importer has to resort to a bill of sight; he obtains that document with an order for landing and examination on application at the Custom House.⁽²⁾ The importer then proceeds to land the goods, which are thereupon examined by the officer in his presence, and with the information thus obtained, he converts the bill of sight into a perfect entry, as hereinbefore explained (p. 122), by endorsing the particulars upon it, and if the goods be dutiable, pays down the duties at the Custom House, in the same manner as if he had proceeded there with sufficient information in the first instance. Should it be found by the landing officer, on this examination under bill of sight, that the goods are not dutiable, the importer by endorsing the bill of sight, converts it into a

(1) The warrants are forwarded every half-hour from the Long Room in London to the officer of the registrar of the station named in the entry, where the importer receives an order for the landing and examination of the goods, unless the importer has availed himself of the privileges granted by the several recent minutes of the Board of taking up the landing orders in the Long Room at the time of making the entry.

(2) This bill of sight will be obtained at the "Report Office," Long Room, and the order upon it from the registrar at the adjoining seat.

perfect entry for free goods, and delivers it to the officer, who thereupon discharges the goods out of the Crown's custody. (1)

If the ship be lying in the stream, or at a distance from the wharf or station at which the importer desires to land the goods, and they have to be conveyed by lighter or other conveyance from the ship to the station, an officer is required to accompany them; but, as already stated, the unshipment, lighterage, landing, and in fact all operations connected with the carriage of the goods are performed by or at the expense of the importer, and in the manner he may deem most convenient. No charge whatever is made by the Customs for accompanying or examining the goods, nor indeed for anything, except the actual duty due to the Crown.

WAREHOUSING REGULATIONS.

The processes by which goods are duly warehoused having been described, next, in order follow the regulations, which more particularly relate to internal management, the security of the goods deposited and the incidental circumstances, by which they are affected.

IMPROPERLY STOWING OR NOT PRODUCING GOODS.

If any warehouse keeper neglect to stow the goods, so as to afford easy access to every package, or, if he fail, on the request of any officer of Customs, to produce any goods deposited in his warehouse, he is liable to a penalty of £5, in respect of each package. Secs 91 & 92.

BY WHAT ACTS WAREHOUSED GOODS ARE FORFEITED.

Warehoused goods are forfeited in the following cases.

If not duly warehoused according to entry,—if being duly warehoused, they be fraudulently concealed in, or removed from, the warehouse,—or, abstracted from any package,—or transferred from one package to another—or otherwise transferred for the purpose of illegal removal or concealment. Sec. 93.

Persons concerned in such illegal proceedings are, under section, 232, liable to a penalty of treble the value of the goods or £100, at the election of the Commissioners.

(1) In all cases, on the delivery of goods, an "Out-of-a-charge note," or a "Locker's order," is given by the officer.—B. B. Nov. 20, 1843.

IMPORTER GAINING CLANDESTINE ACCESS TO WAREHOUSE.

To guard against any improper interference on the part of any proprietor of warehoused goods, clandestine access to the goods by him or his servants, subjects the party to a penalty of £100. Sec. 94.

REMOVAL OF WAREHOUSED GOODS WITHOUT ENTRY.

If goods be removed from any warehouse without due entry, the warehouse keeper is forthwith to pay the duty on such goods ;⁽¹⁾ and persons concerned in removing, destroying, or embezzling them, will be guilty of a misdemeanor and punishable accordingly. But, if the person guilty of such removal, destruction or embezzlement be a Customs officer, and be prosecuted to conviction by the importer or proprietor of the goods, the duty on the goods will be remitted, and, with the sanction of the Treasury, such importer or proprietor will be compensated for his loss by order of the Commissioners of Customs.⁽²⁾ Sec. 95.

In the event of fire or other inevitable accident, the proprietor of warehoused goods will have no claim on the Customs for any loss he may sustain by such fire or accident. Sec. 96.

WHEN THE DUTIES ON WAREHOUSED GOODS MAY BE REMITTED.

Contra-distinguishing ordinary accidents from the inevitable visitations of fire, flood, tempest, &c., duties may be remitted by the Commissioners of Customs on goods warehoused, or entered to be warehoused, or entered to be delivered from the warehouse, when lost or destroyed by unavoidable accident—on ship board,—in landing,—in receiving into the warehouse,—or in the warehouse⁽³⁾. Sec. 97.

REMOVAL OF WAREHOUSED GOODS TO OTHER PORTS, &c.

The advantages of the warehousing system would be materially

(1) Goods so removed, if discovered, are also, under section 128, liable to forfeiture.

(2) The general offence of embezzlement, by officers, of monies or securities for money belonging to the public, is punishable under 2 Wm. IV. c. 4, s. 1, passed for prevention of frauds by persons in the public service.

(3) Similar provisions are contained in section 129 as to goods on delivery out of the warehouse.

curtailed if the importer of goods, once warehoused, were limited in his operations to the place where they were first bonded. He could not transfer them to any other port or dispose of them (except for exportation) without foregoing the privilege of deferring the payment of duty until a satisfactory market could be found for his merchandize, and losing the advantage, in many cases highly prized, of selling in bond. To guard against such an impediment to the operations of commerce, the law authorises the transference of goods from one warehouse to any other in the same or any other port, and so on, from time to time, as often as the owner may desire, by delivering to the officer of Customs a "request note,"⁽¹⁾ particularizing the goods to be removed, the name of the warehouse or port, to which they are to be conveyed, and such other information as may be necessary. Sec. 98.

IN CASE OF REMOVAL, THE REMOVER TO GIVE BOND.

The officer of Customs at the port of removal is to transmit an account of the goods to the officer at the port of destination, and the remover is to give bond, either at the port of removal or destination, with one surety, in a sum equal to the duty on the goods, for re-warehousing at the port of destination, within such time as the Commissioners shall allow. If the bond be given at the port of destination, it must be certified by the collector there to the collector at the port of removal. The bond will not be discharged, until the goods are produced and rewarehoused at the port of destination, within the time allowed; nor, in case of deficiency, until the duty thereon be paid, unless the goods are accounted for to the satisfaction of the Commissioners. Hitherto, a separate bond was required on every removal; but, to avoid such a repetition of securities, general bond may now be given, with such sureties, in such amount and with such conditions, as the Commissioners of Customs may approve⁽²⁾ for the removal of

(1) This "request note," with slight adaptations, is similar in form to the export Locker's order, p. 180.

(2) A form of general removal bond has been approved, and the following regulations have been issued by the Board.

"That bond be taken by the solicitor, with one, two or more sufficient sureties, in a penalty equal to the amount of duty due on the goods which

goods from the warehouse in any one port to any warehouse in any other port, and for the due arrival and re-warehousing thereof at the port of destination within such time as the Commissioners may direct. Sec. 99.

REMOVED GOODS TO BE WAREHOUSED AS ON FIRST IMPORTATION.

Goods removed under the preceding sections are to be warehoused at the port of destination in the same manner as on first importation.⁽¹⁾ Sec. 100.

may have been removed, by the person giving the bond, in that fortnight of the previous year in which the largest amount may have been removed by him; but, should the penalty of the bond be subsequently deemed by the Board insufficient to cover the transactions of the remover, additional security will be required.

"That the bond, when taken, and until the privilege be revoked by the Board, be held to apply to the removal under the warehousing regulations of any goods belonging to the remover giving the bond, from *any one port* specified therein, to any other warehouse or port in the United Kingdom.

"That a bond note," (*similar, with slight adaptations, to the export form given on p. 161.*) "signed by the remover, or, if a firm, by one of the partners of the firm, or clerk or agent authorised by him or them, stating the goods intended to be removed, and the mode of conveyance, be delivered to the clerk of the bonds in the Long Room in London, or to the clerk who has hitherto taken security at the out-ports; that the signature to such bond note, if signed by the person entering into bond, or by the firm, if a firm, be compared with the signature of such person or firm, which is to be required at the time of entering into bond to be written in a book to be kept in the bond office for that purpose, and the signature, if that of a clerk or agent authorized by the remover or firm, is to be compared with the signature of such clerk or agent, and with the authority from the remover on whose behalf he acts, which are to be written in the book before-mentioned in the bond office, and to be acted upon, until revoked by the person giving the authority. If the signature be found correct, the bond note is to be certified and forwarded to the comptroller of accounts as his authority for the delivery of the goods.

"That a record be kept in the bond office of the general bonds entered into by different removers, and of all bond notes issued at the request of each, and the Board's attention is to be called to any extraordinary or unusual quantity of goods removed under any particular bond, in order that further security may be required, or such other steps be taken as may be deemed necessary.

"That in all cases, the due arrival or non-arrival of goods at their destination be certified to the comptroller of accounts in London, or collector and comptroller at an out-port with the least possible delay."—B. M. Nov. 24th, 1853.

(¹) *Vide* secs. 58 and 59 as to entry and warehousing on first importation.

**REMOVER MAY ENTER GOODS FOR HOME USE OR EXPORTATION
WITHOUT RE-WAREHOUSING.**

On the arrival of removed goods at the port of destination the remover may, if he desire it, after *pro forma* entry and examination for re-warehousing, enter them for exportation or home use, without actual re-warehousing; and goods so exported, or for which, on entry for home use, the duties have been paid, shall be deemed to be duly cleared from the warehouse. Sec. 101.

REMOVAL OF SPIRITS.

No spirits, which shall have been imported from parts beyond the seas into the United Kingdom and upon which a higher duty is chargeable on importation into England than into Scotland or Ireland, are to be brought from the latter countries into England; nor are any spirits, upon which a higher duty is payable on importation into Scotland than into Ireland, to be brought into Scotland from Ireland, except such as, having been duly warehoused on first importation, shall be in the warehouse at the time of removal, nor unless removed from one warehousing port to another, according to the regulations required by law ⁽¹⁾; and spirits so removed are, on entry for home consumption, liable to the duty chargeable in that part of the kingdom, into which they are removed. Spirits removed contrary hereto are forfeited, and all persons concerned in illegally removing or receiving such spirits are liable to a penalty of £100, or treble the value of such spirits, at the election of the Commissioners of Customs or Inland Revenue. Sec. 102.

**WAREHOUSED GOODS TO BE CLEARED OR RE-WAREHOUSED
WITHIN FIVE YEARS.**

Under the pre-existing law all goods warehoused were required to be cleared within three years after the first warehousing of them, or within such further time as the Treasury should direct. In pursuance of the latter discretionary power, the period

⁽¹⁾ For these regulations, *vide* sec. 98, and note ⁽²⁾ thereon, p. 145, *et seq.*

for clearance was in various ways extended, until, ultimately, by an order of the Treasury, in 1831, it was left entirely open. This system of permitting goods to remain in the warehouse for an indefinite time became the subject of complaint before the Select Committee of the House of Commons, who, in their final report, recommended the limitation to four years, but, with permission to re-warehouse on payment of the duties on any deficiencies found to exist on each quaterennial examination. This recommendation so far prevailed, as to induce the Treasury to direct its adoption, with a slight extension of the period. Hence the present law directs, that all warehoused goods shall be cleared for home use or exported at the end of five years after warehousing, or within such further period, as the Commissioners of the Treasury may direct, unless the proprietor shall re-warehouse them, as on first importation⁽¹⁾. The duties due upon any deficiency or difference between the quantity then found to exist and the quantity ascertained on the previous warehousing are to be paid together with the expenses of such examination. Sec. 103.

GOODS NOT CLEARED, &c., AS REQUIRED WITHIN THE ABOVE
TIME TO BE SOLD.

If warehoused goods are not cleared, exported, or re-warehoused within the prescribed period, and the duties on the ascertained deficiencies paid, such goods may, after one month's notice to the warehouse-keeper, and with or without his consent, be sold, and the proceeds applied to the payment of the duties, warehouse rent, and charges; and the surplus, if any, is to be paid to the proprietor, or if he cannot be found, to be carried to the Crown's account, to abide his appearance or claim. If the goods be not worth the duty, they may, after similar notice, be exported or destroyed, the warehouse-keeper being held responsible for the duties on any deficiency not allowed by law. Sec. 104.

(1) From each re-warehousing, which is treated as a first warehousing on importation, a fresh period of five years commences, and as each such period expires, clearance is required as before, and subject to the same regulations.

PACKING AND REPACKING GOODS IN WAREHOUSE.

Goods in the warehouse may, for the preservation, sale, shipment or disposal thereof, be sorted, separated, packed, repacked or altered with the sanction of the Commissioners of Customs, and under such regulations and restrictions, as they may, from time to time, prescribe. But, when repacked, it must be in one of the two following ways, viz. :

1st. in the packages in which they were imported,—or, 2nd. in packages allowed by the Commissioners of Customs, not less in size, if the goods are for exportation or removal to another warehouse, than is required by law on the importation of such goods.⁽¹⁾ Sec. 105.

BOTTLING AND MIXING WINES ⁽²⁾ AND SPIRITS.

Also, with the sanction of, and subject to such regulations and restrictions as, the Commissioners of Customs may direct—wines and spirits may be dealt with in the warehouse as follows:—

They may be drawn off and bottled in reputed quart or pint bottles, but, for exportation only. Brandy may be drawn off and mixed with wine in the proportion of ten gallons of brandy to one hundred of wine.—Casks of wine or spirits may be filled up from other casks in the same warehouse.—Wine may be racked off from the lees.—Wines of the same sort may be mixed, provided all import brands be erased from the casks; if, however, the whole of the wine so mixed be of the same brand, such brands need not be erased. *Ib.*

RESIDUES ON REPACKING INSUFFICIENT FOR LEGAL PACKAGES TO BE CLEARED.

After the above processes of packing, repacking, drawing off,

(¹) Goods for shipment as stores are allowed by the Board to be put into convenient sized packages for the purpose.

(²) By T. O. 28th June, 1853, wines in bond may be fortified by the admixture of geropiga in the same proportions as to strength and under the same regulations as brandy. It may here be observed, that under the same order, geropiga or other liquids, containing more than 33 per cent. of proof spirit, are to be charged with the same import duty, as sweetened spirits.

and separation of original packages, there will, of necessity, often remain some residue or surplus, insufficient to make up a legal package, in which case, it is provided, that the duties on such surplus or residue, if consisting of goods admissible for home consumption, shall be immediately paid, and such surplus or residue be delivered for home use accordingly. *Ib.*

REFUSE FROM RE-PACKING MAY BE DESTROYED AND DUTY
REMITTED.

On the request of the importer or proprietor any refuse, damage or surplus, resulting from the operations of separation and repacking, and on similar request, any goods, which may not be worth the duty, may be destroyed by the permission of the Commissioners, who may remit the duty on such goods⁽¹⁾. *Ib.*

SAMPLES OF WAREHOUSED GOODS.

Samples may be taken by the importer or proprietor of warehoused goods, in such manner and to such extent as may be allowed by the Commissioners of Customs,⁽²⁾ with or without entry and without payment of duty, except so far as the same may eventually become payable, as on a deficiency of the original quantity. *Ib.*

Prior to any of the foregoing operations in the warehouse under section 105, such notice as the Commissioners may prescribe, is to be given by the importer or proprietor. *Ib.*

THE DUTY ON PACKAGES USED FOR REPACKING TO BE PAID.

No foreign packages or materials are to be used in repacking goods in the warehouse, except such as have been used in the importation of goods, or upon which the duty has been paid. Sec. 106.

GOODS IN WAREHOUSE MAY BE TAKEN OUT ON CONDITIONS.

The Commissioners of Customs may permit goods to be taken out of the warehouse without payment of duty,—for such purpose

⁽¹⁾ As to remission of duty in other cases. Sec. 97.

⁽²⁾ The taking of official samples is provided for by section 73, p. 128.

or period, as they may deem expedient,—in such quantities as they may approve,—under such regulations and restrictions as may be prescribed by them,—and with such security by bond as they may direct, for the due return thereof or payment of the duty due thereon. Sec. 107.

SUGAR MAY BE DELIVERED TO BONDED SUGAR HOUSES FOR
REFINEMENT.

Where bonded sugar houses are approved⁽¹⁾ the officers of Customs may deliver to the proprietors or occupiers any quantity of sugar, on due entry, for refining under the locks of the Crown, for removal to the Isle of Man,⁽²⁾ or for exportation; sugar so

(1) The power to approve bonded sugar-houses has already been treated of under section 10, p. 79.

(2) A doubt has been raised, whether sugar refined in bond and removed to the Isle of Man might not be brought back and admitted into consumption in England, it may therefore be observed, that, the rule being, that sugar should only be thus refined for exportation, it could not under this Act have been removed to the Isle of Man as an export, (as section 346 declares the Isle of Man, for Customs purposes, part of the United Kingdom,) but for this exception in favour of that Isle, to facilitate the supply of refined sugar for consumption there; if not delivered there, the object would not be attained. Such an importation into that Isle is merely a removal coastwise, and, on arrival at its destination, it could only be re-warehoused there on the same conditions as were applicable to it in the warehouse of the port of removal. If delivered in the Isle, it cannot be brought back, for under section 347, foreign goods subject to a higher import duty in Great Britain or Ireland than in the Isle of Man, which is the case with sugar refined in bond, cannot, after being imported into that Isle and delivered out of charge of the officers there, be brought back to Great Britain or Ireland; nor, under the same section, can any foreign goods liable to higher import duty in Great Britain or Ireland than in the Isle of Man, when brought into the said Isle, though not cleared and delivered there, be carried thence into Great Britain or Ireland, until the same shall have been duly cleared for that purpose by the proper officer, nor until security by bond or otherwise shall have been given, on such conditions as the Commissioners of Customs may direct, for the due delivery thereof at some port or place in the United Kingdom, unless reported for removal in the same ship and in continuation of the voyage to some port in Great Britain or Ireland. This exception cannot apply to sugar removed from Great Britain or Ireland to the Isle of Man, inasmuch as going *from* the former to the latter cannot be held to be in continuance of a voyage *to* the former within the meaning of the Act.

delivered must be secured in such bonded sugar houses under such regulations as the Commissioners of Customs shall direct. *Ib.*

On the entry of sugar to be refined in any bonded sugar house the proprietor is to give bond, in double the amount of the duty payable upon such quantity of sugar. This bond must contain a condition, that the quantity of sugar so entered shall be refined in such bonded sugar house, and that within four months from the date of the bond, the sugar so refined, and also the treacle produced by that process, shall either be removed to the Isle of Man, or be exported from such bonded sugar house, or be delivered into an approved bonded warehouse under the locks of the Crown for eventual removal or exportation. Sec. 108.

If after sugar has been refined, any other person than the refiner export or remove it, a distinct bond under the 120th section of the Act, must be given by him for such exportation or removal.⁽¹⁾

ENTRY AND DELIVERY FROM WAREHOUSE FOR HOME CONSUMPTION AND EXPORTATION.

Warehoused goods are not to be delivered from the warehouse, except upon due entry, and under the care of the proper officers, for exportation; or on due entry and payment of the duties for home use,⁽²⁾ except goods delivered into the charge of the searchers to be shipped as stores. Sec. 109.

On entering goods to be cleared from the warehouse for home use, a bill of entry and duplicates thereof,⁽³⁾ corresponding with the entry of goods for home use from the ship, as given in note ⁽²⁾, p. 119, substituting for the words "to be warehoused, &c.," the words "warehoused by (*name of party*)," and adding the date of the warehousing entry,⁽⁴⁾ are to be delivered to the proper officer of Customs, to whom the duties on such goods are to be immediately paid down, according to the quantity stated in the

⁽¹⁾ As to the liability of persons removing goods without entry, *vide* sec. 232, p. 218, *et seq.*

⁽²⁾ As to the account for duties, *vide* sec. 87, p. 140.

⁽³⁾ As to the shipment of stores, *vide* sec. 140, p. 168.

⁽⁴⁾ *Vide* sec. 55, p. 115, and note⁽¹⁾ in p. 119, *et seq.*

landing account on the first entry and landing thereof,⁽¹⁾ except as to the following goods, viz., tobacco, wine, spirits, figs, currants, raisins and sugar, the duties whereon shall be charged on the quantity ascertained at the time of the delivery, unless, in case of deficiency, there be ground for supposing, that it has arisen from illegal or improper means, in which case the officer of Customs is to make no further abatement for loss, than what may fairly be considered to have arisen from evaporation or other legitimate cause. Sec. 110.

In assessing the duty on deficiencies the value of the goods is to be estimated as nearly as possible by the market price of similar goods. Sec. 111.

No deficiency in goods entered for exportation, is to be charged with duty, unless the officers have reason to believe that it has been caused by fraudulent abstraction.⁽²⁾ Sec. 112.

No entry for home consumption of wood goods from the warehouse, is to be received for less than five loads, unless delivered by tale, in which case not less than 240 pieces or two great hundreds may be entered; and, if delivered by tale, not less than one load or 90 pieces are to be delivered at any one time. Sec. 113.

PLAYING CARDS.

The three next sections, relating to playing cards, partake of a somewhat anomalous character as they have little reference to the Customs. They were prepared by the Inland Revenue Department, and introduced into the Bill during its progress through Parliament. Foreign playing cards are subject, under the Customs Tariff, to a duty on importation of 15s. per dozen packs, whilst home made cards are subject to a stamp duty, and to certain regulations for the protection of the latter duty; and it was

(¹) As to Excise regulations respecting spirits and tobacco, *vide* last par. of note (²), p. 116.

(²) These regulations with regard to allowances on deficiencies effect a very important alteration in the law; the advantage formerly enjoyed by a particular class of warehouses over others being removed, together with the scale of limitation, which, whilst it led to much inconvenience and fraud on the one hand, often worked an injustice to the unprivileged.

deemed expedient to superadd these clauses, as a further safeguard against infraction of the stamp laws. Imported playing cards are not to be sold or exposed for sale without wrappers and devices thereon provided by the Inland Revenue. Nor is any person to sell, or offer for sale, cards, whether home made or imported, not being cards within the meaning of 16 and 17 Vict. cap. 59, and enclosed in a licensed maker's wrapper, and not being waste cards, according to the Act, without wrappers provided under this Act, under a penalty of £10, if he be not a licensed maker, and £20, if he be. Such cards may be seized by officers of Customs or Inland Revenue, and disposed of as the Commissioners of the latter may direct.

In proceedings for the penalties, the allegation that the offender did sell or offer, &c., is sufficient. Sec. 114.

The Commissioners of Inland Revenue are to provide wrappers and appoint officers to enclose imported cards. And those officers, on receiving notice, with a certificate from the Customs, that the duties on the imported cards are paid, are to enclose them in wrappers. If any such cards, or any home made cards, representing cards imported (not being waste cards), or packs of cards on which stamp duty is not paid, be found without wrappers, they are forfeited, may be seized by officers of Customs or Inland Revenue, and disposed of as the Commissioners of Inland Revenue may direct. Lastly, parties forging wrappers are to be deemed guilty of felony, and liable to the same punishment, as persons forging any stamp or mark provided or used by the Commissioners of Inland Revenue. Secs. 115 and 116.

It may here also be observed that, under the Inland Revenue Act, 9 Geo. 4 c. 18, sec. 33, foreign cards, wrappers, labels, &c., imported without the foreign maker's name and address, or bearing the name of any British licensed maker, are not only prohibited to be warehoused, but, are liable to seizure and forfeiture; and the same Act, (secs. 28 to 32 inclusive,) contains regulations affecting the exportation of cards, to which, though not Customs' regulations, it is deemed expedient, thus briefly to advert, because they affect the transactions of the trade with the Customs, and impose certain duties on the officers.

CHAPTER III.

EXPORTATION.

The provisions which have reference to the importation of goods and the incidents affecting them in this country, so far as the revenue is concerned, having been explained, the next leading division of the statute relates to the important business of exportation, with reference to which, it cannot fail to be observed, that by simplification of the fiscal machinery, facilities, far superior to those prescribed by the repealed statutes, are afforded.

MINIMUM TONNAGE OF EXPORT SHIPS.

Warehoused goods are not to be exported or entered for exportation to foreign parts in ships of less than fifty tons ; but an exception is made in favour of ships regularly trading from the United Kingdom to the Channel Islands, the tonnage of which is not to be less than forty tons ⁽¹⁾. Sec. 117.

CERTIFICATE OF CLEARANCE OF SHIPS INWARDS.

Before any goods are shipped for exportation the master must give to the collector or comptroller a certificate from the proper officer, of the clearance inwards or coastwise of such ship as respects her last voyage. If the ship has commenced her lading at any other port the master is to deliver to the searcher the clearance of the goods from such port. Sec. 118.

⁽¹⁾ As to the goods which such ships may not carry, except subject to regulations, the violation of which involves forfeiture of the ship and goods, *vide* secs. 192 and 193.

ENTRY OF SHIP OUTWARDS.

The master is to deliver with the above certificate an entry outwards of the ship in the form required by the Act or to that effect ⁽¹⁾. If any goods are taken on board before the delivery of such entry outwards, unless under a stiffening order ⁽²⁾ from the proper officer, the master incurs a penalty of £100.⁽³⁾ *Ib.*

TIMES, PLACES, AND CONDITIONS OF SHIPMENT.

Goods are not to be put off or conveyed to any ship for exportation, on Sundays or holidays⁽⁴⁾,—nor except from some legal quay, wharf, or other duly appointed place⁽⁵⁾,—nor without the presence or authority of the proper officer of Customs,—nor before due entry outwards of the ship,—nor before due entry of the goods—nor before the goods be duly cleared for shipment ⁽⁶⁾. Sec. 119.

(1) The following is a specimen of the entry as used :—

ENTRY OF SHIP OUTWARDS.			
Port <i>London.</i>			
Ship <i>Neptune.</i>	Tonnage.	Master,	for
<i>of Southampton.*</i>	250	<i>J. Jones.</i>	<i>Melbourne.</i>
Lying at the Docks.			
Signed		<i>J. Jones, Master.</i> or <i>J. Smith, Agent.</i>	
Date, <i>16th Dec., 1853.</i>			
Partly laden at			
<i>Harwich. }</i>			

* If the vessel be foreign, the country is inserted, instead of the port.

(2) The term "stiffening order," designates the permission granted by the Customs for lading heavy goods, by way of ballast, to steady the ship, and, when necessary for that purpose, it is given without the formal entry outwards.

(3) For facilitating the despatch of business, the Board permit vessels to enter outwards at the time of entry inwards, so that goods may be in preparation for shipment, whilst the vessel is discharging her inward cargo.—B. O. 25th Sept. 1841, and 7th May, 1842.

(4) As to holidays *vide* sec. 6, p. 76.

(5) As to quays, &c., *vide* secs. 9 and 13, p. 77.

(6) Goods shipped without clearance are under section 144 liable to forfeiture.

AS TO ENTRY AND CLEARANCE OF GOODS OUTWARDS.

The change effected in the waterside practice with respect to goods outwards, is sufficiently important to demand particular notice. Under the old law, before any goods could be exported, it was necessary to deliver entries with duplicates at the Long Room of the Custom House, which were to a certain extent fictitious or rather speculative,—not professing to specify the actual quantity of goods, intended to be shipped, but any covering quantity the exporter chose to insert, the actual quantity being afterwards supplied by endorsement, when the shipment took place, and if any portion of the goods so endorsed were not put on board, the discrepancy was again rectified by making that portion in waterside phraseology “short shipped.” This document, being certified by the searcher, was called a cocket⁽¹⁾. In addition to the cockets, shipping bills for the various shipments comprised in the whole cargo, containing a summary of the shipments endorsed on the cockets, were prepared and delivered to the Customs.

A suggestion was advanced by the Select Committee of the House of Commons in their Report, (*Head 12*), that all entries outwards in respect of free goods should be abolished, and that, in lieu thereof, one content or single shipping bill of the whole cargo, should be delivered by the agents for the ship, after her departure. This alteration would have entirely annihilated the cocket system, because the entry outwards, in whatever shape, was the only instrument convertible into a cocket, and the suggestion of the committee could not be fully carried out, without manifest injury to the interests it professed to serve. By the new Act, in lieu of the complicated operations just described, an invoice or account of the goods, denominated a shipping bill, is substituted, which may, if more convenient to the exporter, be delivered to the searcher

(¹) The classical supervisors of exports in ancient times, signified, in rather exceptionable Latin, that all their requirements were satisfied, by the use of the words, “quo quietus est.” Hence the term coquet or cocket. Lord Chief Justice Hale’s *Tract De portibus Maris*. (*Pars secunda*, cap. XI.), furnishes the following form of this document. “Edwardus omnibus, ad quos, salutem. Sciatis, quod J. S. nobis solvit in portu nostro London, custumas nobis debitas pro tribus saccis lanae, quo quietus est, testibus collectore and contrarolatore custumarum nostrarum in portu predicto die anno,” &c.

at the time and place of shipment. If a cocket or an equivalent to that document be needed, as to any goods, a duplicate of the shipping bill can be made available for that purpose. The cocket is only required by the Customs in respect of the high duty articles, tea, spirits, and tobacco⁽¹⁾; but, the treaty or agreement between this country and Denmark, Art. 33, contains a stipulation that cockets shall accompany goods entering the Sound or the Belts; and the probability was not lost sight of, that they would still be required on other exportations to particular foreign countries, where evidence of their British character confers an advantageous distinction; and therefore, whilst adopting as far as was prudent, the suggestions of the Select Committee, the option of still taking cockets has been reserved to the exporter⁽²⁾.

It is from the shipping bills that the statistical returns, required by Parliament, are prepared for general commercial purposes, but for which, so far as the Customs Department is concerned, they might, at least with reference to free goods, have been dispensed with. They also serve the further purpose of supplying information to the mercantile body, for whose use, almost contemporaneously with the actual shipments, the particulars are published in the commercial official journal, the "Bill of Entry."⁽³⁾

(1) This precaution is important for the protection of such goods against seizure in the event of the export vessel being driven back by stress of weather or other unavoidable necessity upon any part of the coast, where she would be liable to be boarded by the Customs. *Vide* sec. 126.

(2) The new Act had not long passed into a law, before the advantage of this precaution became apparent, in the case of several exporters, who, having suffered some inconvenience abroad from the want of cockets, made it matter of complaint. The 126th section affords the remedy acted upon as to Denmark by G. O. 1st April, 1854.

(3) This information is held in much esteem by the trade, as an index to the foreign markets, and as a valuable guide for the regulation of commercial operations. When this law passed, the Board, though empowered to call on the exporter for duplicate shipping bills, refrained from demanding any document which could safely be dispensed with: hence the duplicate entries, which formerly found their way to the "Bill of Entry" office, were no longer required, whereupon that journal ceased to furnish the trade statistics, the suppression of which led to remonstrances and appeals to the Commissioners, who at once gave the "Bill of Entry" office access to the original shipping bills, in lieu of the duplicates, and the publication was resumed without taxing the exporter with the preparation of duplicates.

BOND FOR WAREHOUSED GOODS, &c., OUTWARDS.

Before any of the following goods shall be permitted to be exported, viz., warehoused goods, British wrought plate, goods subject to Customs duties, goods entitled to any drawback⁽¹⁾ of

(1) It is scarcely necessary to explain, that the familiar term "drawback" is applied to repayments of duties or taxes previously charged on commodities, but from which they are relieved on exportation, that they may be disposed of in the foreign market on the same terms, as if they had not been taxed at all. Drawbacks may be described as of three kinds: 1st. Customs duties paid on importation and received or drawn back on exportation. 2nd. Allowances on British commodities on their exportation to foreign countries, often at liberal rates, and denominated "Bounties." These under the present Act (interpretation clause) are expressly included in the term drawback. 3rd. Excise or Inland Revenue duties levied on certain home manufactures, but returned on the exportation of the exciseable article. Customs drawback is allowed on the following goods:—

Rice, cleaned in the United Kingdom, and deposited within a month after payment of duty in bond and so remaining until exportation (on declaration of identity by exporter, per cwt., 4½d., being equal to the duty on four bushels of rough rice. Tariff Act, 1853, Table A., No. 357.

Cigars, per lb., 2s. 7½d., and 5 per cent. thereon. Tariff Act, 1853 Table A., No. 229.

Duty-paid sugar, refined, in the United Kingdom, loaf, &c., as described in Tariff, No. 409, on exportation or removal to Isle of Man, per cwt., 12s. 6d. 16 & 17 Vic. c. 106.

Bastard, or refined sugar, broken, &c., as per Tariff Act, 1853, Table A., No. 409, per cwt., 10s.

Tobacco, manufactured in the United Kingdom, cut, &c., as per Tariff Act, 1853, Table A., No. 429, per lb., 2s. 7½d., and 5 per cent. additional.

Wine, British Possession, except Lees, as per Tariff Act, 1853, Table A., No. 463, on exportation or shipment as stores, per gallon, 2s. 9d., and 5 per cent. additional; other wine, except Lees, 5s. 6d., and 5 per cent. additional. Tariff Act, 1853, Table A., No. 463.

There is also a drawback of Stamp Duty on gold and silver plate, as under, payable at Goldsmith's Hall; but, the debentures for which are prepared by the Customs on entry outwards, and issued on the exportation of the goods.

Plate, of wrought gold, manufactured and marked in Great Britain since 1st December, 1784, per oz., 8s. (25 Geo. III. c. 64.); since 5th July, 1797, 16s. (37 Geo. III. c. 90, and 44 Geo. III. c. 98.); 31st August, 1815, 17s. (55 Geo. III. c. 185.); Of wrought silver, manufactured, assayed, and

Customs on exportation, and goods exportable under special rules and restrictions, the exporter or his agent is to deliver to the collector or comptroller a "bond note" or account of such goods,⁽¹⁾ and give bond, with one surety, in double the amount of duty payable on the importation of such goods (except as to British wrought plate, for which bond is given for the amount of drawback) for the shipping, exporting and landing of the goods, or, otherwise accounting for them to the satisfaction of the Commissioners. This Bond Note, certified by the officer of Customs, is the export entry for such goods. Sec. 120.

marked in *Great Britain*, since 1st December, 1784, per oz., 6d., (25 Geo. III. c. 64.); since 5th July, 1797, 1s. (37 Geo. III. c. 90.); since 10th October, 1804, 1s. 3d (44 Geo. III. c. 98.); since 31st August, 1815, 1s. 6d (55 Geo. III. c. 185.); *Of wrought gold or silver*, new, not used, but duly marked, manufactured in *Ireland* and exported, per oz., 1s. 3 & 4 Wm. IV. c. 97.

(¹) This bond note or account is simply a particular of the goods intended to be shipped, the additional entries and duplicates formerly required being dispensed with. The following is the form as actually used, the words in italics representing what should be filled up.

<p>BOND NOTE. GOODS FOR EXPORTATION.</p>
<p>London, 3rd day of February, 1854, <i>Mr. John Smith</i>, of No. 20, <i>St. Dunstan's Hill</i>, intends to export on board the ship <i>Neptune</i>, for <i>Melbourne</i>, the undermentioned <i>warehoused</i> goods, viz. :—</p> <p><i>Four hundred Gallons of proof Brandy, being Spirits not sweetened.</i></p> <p>Amount of duty, £307.</p> <p style="text-align: right;">Signature of the Exporter or his agent, <i>John Smith</i></p>
<p style="text-align: center;">Bond Office, 3rd day of February, 1854.</p> <p>This is to certify that Security has been given as required by Law for the due exportation of the above Goods.</p> <p style="text-align: right;"><i>Frederick Rich</i>, Clerk of the Bonds.</p> <p>The above Goods warehoused by <i>John Smith</i>, the 10th day of <i>January</i>, 1854, ex the <i>Albion</i>, <i>W. Hughes</i>, Master, at <i>Bordeaux</i>.</p>

The name of the Surety is endorsed on the back thus :—

Surety, *Henry Lucey*. *Licensed Lighterman.*

Cox's Quay.

L

SHIPPING BILL FOR GOODS EXPORTED UNDER BOND.

Before any such goods shall be shipped or waterborne for exportation, the exporter is to deliver to the searcher a shipping bill in the form, or to the effect prescribed by the Act ⁽¹⁾. Sec. 121.

EXCISE DRAWBACK ON EXPORTS.

The claimant of drawback of Excise on goods cleared for exportation must perform two requisites—

1st. to give notice of his claim to the officer of Excise.


2nd. to produce to the searcher a document signed by the officer of Excise describing the goods.

If the goods correspond with such description, and be duly shipped and exported, the searcher, if required, is to certify the shipment on the document and transmit it to the officer of Excise. Sec. 122.

WHEN CUSTOMS DRAWBACK IS NOT ALLOWED.

Drawback is not allowed on goods of less value than the drawback claimed, and, if such goods be entered for drawback, they will be liable to forfeiture, and the person entering them, to a penalty of £200, or treble the drawback claimed. Sec. 123.

(¹) The following is a specimen as practically used.

SHIPPING BILL (BONDED GOODS).	
Port, <i>London.</i>	Master, <i>J. Jones, for Melbourne.</i>
Ship, <i>Neptune.</i>	
 1-7 <i>Seven hogsheads.</i>	<i>Three Hundred and Thirty-two Gallons proof Brandy, being Spirits, not sweet- ened, warehoused by John Smith, 10th January, 1854.</i>
	<i>Ex Albion, W. Hughes, from Bordeaux.</i> <i>George Thorpe, Warehouse-keeper.</i>
Total No. of packages, <i>seven.</i> (Signed) <i>John Smith</i> , Exporter or Agent. Station of Clearance, <i>London Docks.</i> (Countersigned) <i>E. Scanlan</i> , Searcher. Dated this <i>4th</i> day of <i>February</i> , 1854.	

DRAWBACK ON TOBACCO.

No drawback is allowed on tobacco not wholly manufactured from duty-paid tobacco, nor on tobacco mixed with dirt, rubbish, or other substance;⁽¹⁾ and persons entering or shipping tobacco contrary to this provision are liable, in addition to any other penalties incurred thereby,⁽²⁾ to pay a penalty of £200, or treble the amount of drawback claimed. Sec. 124.

SHIPPING BILL FOR FREE GOODS, &c.

Before goods not requiring bond can be shipped for exportation, the exporter is to deliver to the searcher a shipping bill in the form required by the Act or to that effect,⁽³⁾ and this shipping bill will be the only entry required. Sec. 125.

So far this section deals with the shipping bill in its original

(¹) There is a similar provision in the Excise Act 3 & 4 Vic. c. 18. sec. 14, and the same Act, sec. 13, interdicts the allowance of drawback on any cut, roll, or carrot tobacco containing any tobacco stalks, and subjects any manufacturer of tobacco, who shall manufacture or have in his possession any such cut, roll, or carrot tobacco for exportation, to a penalty of £200, besides the forfeiture of the tobacco, and it may be seized by any Officer of Customs or Excise. The same Act, sec. 15, subjects any person fraudulently attempting to obtain drawback to a penalty of treble the drawback claimed, or £200, at the discretion of the Commissioners, besides forfeiture of the goods.

(²) This saves Excise penalties for adulteration, &c.

(³) The following is a specimen as practically used.

SHIPPING BILL. (FREE GOODS.)				
Port, <i>London.</i>				
Ship, <i>Neptune.</i>		Master, <i>John Jones.</i>		<i>Melbourne.</i>
<i>British.</i>				
			£	s. d.
G	1—7	Seven Cases Window Glass .	14 cwt.	28 0 0
T	1—2	Two Bales Feathers for beds	3 cwt.	3 10 0
Total No. of Packages, <i>nine.</i>			Total value, £31 10 0.	
I declare the value of the British goods above described to be <i>Thirty-one Pounds Ten Shillings.</i>				
(Signed) <i>William Brown</i> , Exporter or Agent.				
Station of Clearance, <i>London Docks.</i>				
(Countersigned) <i>E. Scanlan</i> , Searcher.				
Dated this <i>4th</i> day of <i>February</i> , 1854.				

simple form, and as first drawn and submitted to the legislature the provision of the Act required nothing more, but the following proviso, and also the last paragraph of section 142, were super-added during the progress of the bill through Parliament.⁽¹⁾

LISTS OF GOODS TO BE FURNISHED.

At the port of Liverpool and at other ports, where the docks, quays and wharves are, in like manner, subject to the control of the same local authorities, the person acting in the loading and clearance of the exporting ship is, in addition to the shipping bill, to prepare and leave with the collector, within 14 days after clearance, an accurate list of all the goods from the bill of lading, &c., stating the value of such of the goods, as were previously chargeable with duty at value, and of British goods, with the names of the shippers, under a penalty of £20. *Ib.*

SHIPPING BILL, THE CLEARANCE FOR GOODS.

The shipping bill is the clearance for the goods, but if any of those consist of tea, spirits, or tobacco, the exporter is to give the searcher an account, stating the number and description of packages, and the quantities in each; and this account, certified by the searcher, is to accompany the ship and have the same effect as the cocket formerly in use. Sec. 126.

COCKETS.

If the exporter require a similar certificate in respect of any goods shipped for exportation, the searcher, on the account being presented to him, is to certify it; and, if required to be in any particular form, for the Zolverein or other foreign state, or, under the name of cocket, it may be so prepared and entitled. *Ib.*

LICENSED LIGHTERMEN ONLY TO CARRY GOODS TO SHIP.

None but licensed lightermen, or persons in their employment, are to carry drawback or warehoused goods for shipment, at

⁽¹⁾ *Vide* note (¹), p. 176.

ports where lightermen are required to be licensed,⁽¹⁾ under a penalty of £20. Sec. 127.

Goods taken from the warehouse for removal or exportation without the authority of the officers, and by any other persons in any other manner and at any other times, than they shall direct, will be forfeited, Sec. 128.

DUTIES ON GOODS LOST MAY BE REMITTED.

The Commissioners may remit duties on goods lost or destroyed by unavoidable accident in delivery or shipping. Sec. 129.

DEBENTURES FOR DRAWBACK.

The collector or comptroller, after entry of goods for drawback, is to prepare a debenture, certifying the entry outwards, and, on being exported and on notice, with the particulars, given to the searcher, he is on the debenture to certify the fact to the collector, whereupon the debenture is computed and passed.⁽²⁾ Sec. 130.

(¹) The power to grant licenses and require security is, as already shown, conferred on the Commissioners by section 16, and, in the note on that section, p. 85, the object of that provision has been explained. As analogous to the subject, it may be convenient here to observe, that similar precautions are extended to goods in transit from one vessel to another under the transhipment regulations, and also to the removals from the warehouse to the quays or stations, at which they are intended to be shipped, for the obvious reason that the risk of removal from ship to ship in the stream or from the warehouse to the quays through streets and alleys is as great, if not in many instances greater, than in the removal from quay to ship. As the transhipment of goods is only permissive, and under such regulations, as the Executive may deem necessary, one of the conditions imposed is, that transshipments by lighter shall only be effected by licensed lightermen, and as warehoused goods can only be removed in such manner and by such persons, as the Customs may permit (section 128), the Board have directed that, unless the goods conveyed by land carriage are accompanied by an officer at the expense of the remover, they shall only be carried by licensed carmen, from whom, as the condition of being licensed, security by bond is required.

(²) Debentures for drawback are, under 16 & 17 Vic. c. 59, subject to stamp duty *ad valorem*, when the amount received is—

	£	s.	d.
Under £10	0	1	0
Above £10 and under £50	0	2	6
Above £50	0	5	0

The claimant is to declare on the debenture, that the goods have been duly exported, and that he was at the time of shipping and still continues entitled to the drawback; and his name is then to be stated in the debenture, which is to be delivered to him, and his receipt, countersigned by the holder in case of transfer in the mean time, shall be the discharge for the drawback when paid. Sec. 131.

No debenture for drawback will be paid after two years from the date of shipment. Sec. 132.

GOODS CLEARED FOR DRAWBACK FORFEITED IF NOT DULY
EXPORTED.

The offence of unshipping and relanding goods cleared for drawback, (unless relanded as short-shipped under the care of the proper officers,) or of carrying them to the Channel Islands, (unless duly cleared for that purpose,) is punishable by forfeiture of the goods, and of any ship or boat used in conveying them from the export ship; and the master and others concerned in such offence will forfeit £100, or treble the value of the goods. Sec. 133.

DRAWBACK ON WINE FOR NAVAL OFFICERS.

Drawback of the whole duty on wine for officers of the Navy in actual service, not exceeding the following quantities per annum, is allowed:—

For every admiral	-	-	-	-	1260
Vice-admiral	-	-	-	-	1050
Rear-admiral	-	-	-	-	840
Captains of the 1st. and 2nd rate	-				630
Captains of the 3rd, 4th, and 5th rates					420
Captain of an inferior rate	-	-	-	-	210
Lieutenant and other commanding officer, marine officer, purser, and surgeon	-	-	-	-	105

unless taken from the warehouse without payment of duty, under

the Customs regulations, and, in either case, shipped at ports approved of by the Commissioners.⁽¹⁾ Sec. 134.

CONDITIONS OF CLAIM FOR SUCH DRAWBACK.

The person claiming such drawback is to state in the entry and declare on the debenture the name of the officer and the ship in which he serves, and the wine is to be delivered into the charge, and shipped under the care, of the officer of Customs. The commanding officer has to certify the receipt of the wine, and the Customs officer the shipment, on the debenture, which is then computed, passed and delivered to the party entitled to it. Sec. 135.

TRANSFER ON OFFICERS LEAVING THE SERVICE, &c.

If any officer leave the service or be removed to another ship, the Customs may permit such wine to be transferred to another officer as part of his proportion, whether in the same ship or another, or for transshipment to any other for such officer, or, may permit it to be relanded and warehoused for future re-shipment; and the officers of Customs at any port may receive back the duties on such wine and deliver it for home use. But, if such wine be not laden on board the ship for which it was intended, or be unladen without the permission of the officers of Customs, it will be forfeited. Sec. 136.

TOBACCO FOR THE NAVY.

The purser of any ship of war in actual service may enter and ship at approved ports, tobacco, warehoused in his name, to the extent allowed, ⁽²⁾ for the use of such ship, on delivering to the

⁽¹⁾ The following ports have been approved for this purpose.

Belfast	Dover	Liverpool	Portsmouth
Cork	Falmouth	London	Rochester
Dublin	Glasgow	Milford	Southampton and
Deal	Leith	Plymouth	Yarmouth.

⁽²⁾ As to quantities allowed, *vide* sec. 139.

collector or comptroller a certificate from the captain, stating the name of the purser and the number of the crew, and giving bond, with one surety, in treble the duties, not to reland it without leave of the Customs. Sec. 137.

If the purser be removed to another ship, the collector may permit the transshipment of any remains of tobacco to such ship on due entry, stating the port and time of first shipment. Sec. 138.

If the ship be paid off, the residue of such tobacco may, with the like permission, be landed and entered by the purser, either for payment of duties, or to be warehoused for six months, for the use of some other ship of war. *Ib.*

The general warehousing regulations as to tobacco are to be observed in these cases, as far as they are applicable. *Ib.*

The allowance of tobacco is not to exceed 2lbs, per lunar month for each of the crew, nor more than six months supply, after that rate, at any one time. All supplies, transfers, and transshipments of tobacco for the navy are to be reported by the collectors with all particulars to the Commissioners, in order that an account may be kept of the supply and consumption of each ship. Sec. 139.

SHIPPING OF STORES.

The master of any foreign bound ship of the burden of fifty tons or more, whose voyage out and home extends to forty days, may on application, but, subject to such conditions as the Commissioners may direct, receive from the searcher an order for the shipment of such stores, as may be necessary for such ship, with reference to the number of the crew and passengers and the duration of the intended voyage. The form of application prescribed by the collector is to be signed by the master or owner of the ship. Sec. 140.

VICTUALLING BILL.

When stores are shipped, the master must prepare an account of them, including any others already on board, and this account

when signed by the searcher and countersigned by the collector will be the ship's victualling bill.⁽¹⁾ *Ib.*

CLEARANCE OF SHIP.

If any part of the inward cargo be reported for exportation in the same ship, the master is, before clearing outwards, to give the searcher a copy of the report inwards of such goods, certified by the collector or comptroller, and if the goods correspond, such

(¹) The form in general use is as follows. In the printed forms the first column contains a list of all articles usually shipped as stores, and the master or his agent merely inserts the goods opposite their denomination in the list.

VICTUALLING BILL.	
Pilot, <i>John Brown.</i>	
Victuals and Stores in the <i>Neptune.</i>	
<i>John Jones, Master.</i> For <i>Melbourne.</i>	
Men, 10. Passengers or Troops, <i>nil.</i>	
Guns, <i>nil.</i> Tons, 250.	
	Net quantities taken on board.
Rum	60 gallons.
Brandy	50 gallons.
Wine	100 gallons.
Coffee	900 lbs.
Raisins	<i>nil.</i>
Currants	100 lbs.
Figs	<i>nil.</i>
Rice	<i>nil.</i>
Sugar	300 lbs.
Tea	120 lbs.
Tobacco	200 lbs.
&c. &c.	
Examined) Cleared.)	6th Feb., 1853.
<i>E. Scanlan, Searcher.</i> <i>J. Braysher, Collector.</i> <i>Wm. White, Broker.</i> Residence, <i>Tower Hill.</i>	

copy is to be signed by the searcher and filed with the ship's papers.⁽¹⁾ Sec. 141.

(¹) As the Laws for the abolition of Slavery, impose on the Customs some duties in relation to ships clearing outwards, it is essential to notice them here. The most memorable of those enactments were the 46 Geo. III. c. 52 and 119, passed in pursuance of a series of resolutions moved on the 12th of May, 1789, by Mr. Wilberforce. The 5 Geo. IV. c. 113, professes to consolidate the Slavery laws in one Act, but some provisions of the 46 Geo. III. c. 52, are re-enacted, authorizing Customs officers to seize, detain, and prosecute Slave ships, as if forfeited under the Customs or Excise Laws. The 9 Geo. IV. c. 84, was passed for the further amendment of the general law—3 & 4 Wm. IV. c. 73, to abolish Slavery in Colonies—5 & 6 Wm. IV. c. 45—6 & 7 Wm. IV. c. 5 & 82, and 1 & 2 Vic. c. 3, granting compensation to owners on manumission of slaves—11 Geo. 4 & 1 Wm. IV. c. 55, reducing bounties on seizure of slaves—6 & 7 Wm. IV. c. 81, 7 Wm. IV. & 1 Vic. c. 62, 1 & 2 Vic. c. 102, 1 & 2 Vic. c. 47, 2 & 3 Vic. c. 57 & 73, 3 & 4 Vic. c. 64, 5 & 6 Vic. c. 42 & 59, 6 & 7 Vic. c. 26, 46, 91 & 98, for carrying into execution, by Order in Council, treaties, conventions, &c., with foreign powers, &c., for suppression of the Slave Trade—5 & 6 Vic. c. 114, repealing so much of 2 & 3 Vic. c. 73 as relates to Portuguese vessels. There are various Acts for carrying into effect treaties with particular foreign powers, viz., 7 & 8 Geo. IV. c. 54 & 74, Sweden and Brazil—6 & 7 Wm. IV. c. 16, Jamaica—1 & 2 Vic. c. 19, British Colonies—c. 39, two conventions between the Hans Towns, and King of the French—c. 40, Sweden—c. 41, Netherlands—c. 83 two conventions between Tuscany and King of the French—c. 84, two conventions between Two Sicilies and King of the French—5 & 6 Vic. c. 41, Hayti; c. 101, India, extending powers to East India Company—8 & 9 Vic. c. 122, Brazil, African Slave Trade—11 & 12 Vic. c. 116, Equador—12 & 13 Vic. c. 84, Arabian Chiefs in Persian Gulf—16 & 17 Vic. c. 16, Chief of Sohar, Arabia. There are also various treaties with particular states. 3 & 4 Wm. IV. c. 72, King of the French—5 & 6 Wm. IV. c. 60, King of the French, and Sardinia; c. 61, King of the French, and Denmark—6 & 7 Wm. IV. c. 6, Spain—3 & 4 Vic. c. 67, Venezuela—5 & 6 Vic. c. 40, Argentine Confederation—6 & 7 Vic. c. 14, Bolivia; c. 15, Texas; c. 16, Uruguay; c. 50, Austria, Prussia, and Russia—c. 51, Mexico: c. 52, Chili; c. 53, Portugal—16 & 17 Vic. c. 17, New Granada. The latter Acts contain the provisions of the general Acts, which furnish the characteristics of slave ships, requiring the attention of the officers of Customs. They are nearly to the same effect in each, and are as follow.

“Every such vessel shall be subject to seizure, detention, and condemnation, under any such Order or authority, if in the equipment of such vessel there shall be found any of the things hereinafter mentioned, namely:—

“1st. Hatches with open gratings, instead of the close hatches which are usual in merchant vessels.

SHIP'S CONTENT.

Before any ship clears with goods outwards the master is to deliver to the searcher a content or account of the cargo in the

"2nd. Divisions, or bulkheads, in the hold or on deck, more numerous than are necessary for vessels engaged in lawful trade.

"3rd. Spare plank fitted for being laid down as a second or slave deck.

"4th. Shackles, bolts, or handcuffs.

"5th. A larger quantity of water, in casks or in tanks, than is requisite for the consumption of the crew of the vessel as a merchant vessel.

"6th. An extraordinary number of water-casks, or of other vessels for holding liquids, unless the master shall produce a certificate from the Custom House at the place, from which he cleared outwards, stating that a sufficient security had been given by the owners of such vessel that such extra quantity of casks or of other vessels should only be used for the reception of palm oil or for other purposes of lawful commerce.

7th. A greater quantity of mess tubs or kids than are requisite for the use of the crew of the vessel as a merchant vessel.

8th. A boiler of an unusual size, and larger than requisite for the use of the crew of the vessel as a merchant vessel; or more than one boiler of the ordinary size.

9th. An extraordinary quantity either of rice, or of the flour of Brazil, manioc, or cassava, commonly called farina of maize, or of Indian corn, or of any other article of food, whether beyond what might probably be requisite for the use of the crew; such rice, flour, maize, Indian corn, or other article of food not being entered on the Manifest as part of the cargo for trade.

"10th. A quantity of mats or matting larger than is necessary for the use of the crew of the vessel as a merchant vessel.


"Any one or more of these several circumstances, if proved, shall be considered as *prima facie* evidence of the actual employment of the vessel in the transfer of negroes or others, for the purpose of consigning them to slavery, and the vessel and cargo shall thereupon be condemned to the Crown, unless it be established by satisfactory evidence on the part of the master or owners that such vessel was, at the time of her detention or capture, employed on some legal pursuit, and that such of the several things above enumerated as were found on board of such vessel at the time of her detention, or had been put on board, on the voyage on which, when captured, such vessel was proceeding, were needed for legal purposes on that particular voyage."

The above extract is from the 2 & 3 Vic. c. 73. There are slight variations in the corresponding clauses of the different Acts, reference to that of the particular country to which the ship belongs should be had when any case arises.

The bond and the certificate required under the 6th regulation are prepared by the officers of the port of clearance.

form required by the Act or to that effect.⁽¹⁾ The declaration at the foot must be made before the collector and comptroller, and the master is to answer any questions put to him by either of them as to the ship, cargo, and intended voyage;⁽²⁾ and before clearance

(¹) The following is a specimen as used.

CONTENT.		
Port of <i>London.</i>		Pilot, <i>John Brown.</i>
Ship, <i>Neptune.</i>	250 Tons. 10 Men.	Master, <i>John Jones.</i>
<i>British.*</i>		
For <i>Melbourne.</i>		
Warehoused Goods.	Drawback & restricted Goods.	British Goods & Foreign Goods free of Duty, & Foreign Goods not for Drawback.
 1—7 <i>Seven Hogsheads.</i>	<i>nil.</i>	<i>Sundry Packages of British Goods.</i>
Broker, <i>Wm. White.</i>		Examined, <i>6th February, 1854.</i>
Cleared, <i>6th February, 1854.</i>		(Signed) <i>E. Scanlan, Searcher.</i>
Dated,		
I do declare, that the above Content is a true account of all goods shipped, or intended to be shipped, on board the above-named ship, and correct in all other particulars, and that all the requirements of the Act 14 & 15 Vic. cap. 79, have been duly complied with.		
(Signed) <i>John Jones, Master.</i>		
Signed and declared, this <i>6th</i> day of <i>February, 1854,</i> before me, <i>J. Braysher, Collector or Comptroller.</i>		
* If foreign, name of country to be substituted.		

(²) In relation to the departure of ships, the laws relating to the illegal enlistment of British subjects and equipment of vessels for warlike purposes, require a brief notice. These were consolidated by the 59 Geo. III., c. 69. The 2nd, 3rd and 4th sections describe the offence making it a misdemeanour. By section 5 the chief officers of Customs at any port, upon information on oath before them, setting forth the particulars that offenders against the Act are on board, may detain the ship. By section 6 masters of ships having offenders on board incur a penalty of £50 in respect of each offender, and every such ship may be seized and detained by the collector and other officer of Customs until such penalties be paid, or until the master, owner, or persons enlisted shall give sufficient bail for payment of the penalties. By section 7 persons fitting out or arming vessels to be used in hostility to any foreign power not at war with this country, are guilty of a misdemeanour, and the officers of Customs are required, on similar proof of the offence, to seize and detain such vessels.

the certificates, if, any, are to be given to the searcher, who is to compare the shipping bills with the content⁽¹⁾ and certificates, if

(1) The general law with regard to carriage of passengers by sea is embodied in the Act of 15 & 16 Vic. c. 44, called "The Passengers' Act, 1852." It repeals all former Acts except 4 Geo. IV. c. 88, adverted to at the end of this note. The Emigration Commissioners having furnished their officers and the officers of Customs with abstracts of the Act, and ample instructions for their guidance, a brief notice of the leading points of the Act will suffice for general information.

Passenger ships are defined to be.—All sailing ships with more than one adult to every 25 tons, or steamers with more than one to every 10 tons, on voyages to which the Act extends, but is not applicable to cabin passengers. Sec. 3.

Foreign, as well as British, ships are included. Sec. 4.

Masters are to give facilities for inspection. Sec. 9.

Masters of foreign ships are to give special bond. Sec. 59.

Ships are not to clear without certificates of compliance with Act, on pain of forfeiture. Secs. 10 and 11.

Passengers are to be carried only on passenger decks. Sec. 12.

The numbers are limited by space and tonnage. Sec. 12.

List of passengers are to be countersigned by Emigration officers. Sec. 13.

Passenger ships are to be surveyed under direction of Emigration officer and at owner's expense. Sec. 16.

Berths are not to be less than six feet eighteen inches. Sec. 18.

Separation of sexes, except husbands and wives, is provided for.—Sec. 19.

Hospitals are to be provided. Sec. 21.

Light and ventilation is required between decks. Sec. 23.

Number of boats is regulated. Sec. 24.

Provision for life buoys, fire engines and signals. Sec. 24.

Ships are to be properly manned. Sec. 24.

Certain articles are prohibited as cargo. Sec. 26.

Length of voyages is limited. Sec. 27.

Provisions and water is to be conveyed. Sec. 28.

Rejected provisions are not to be re-shipped. Sec. 29.

Dietary scale fixed. Sec. 32.

Passengers, stewards and cooks are to be carried. Secs. 35 and 36.

Foreign ships are to carry interpreters. Sec. 37.

All ships are to carry surgeons, with proper medicines and instruments. Secs. 38, 39, 40.

Medical inspection of passengers and crew is required. Sec. 41.

Passage-money is to be returned to passengers relanded. Sec. 43.

Compensation for breach of contract. Sec. 44.

Subsistence in case of detention. Sec. 45.

any, and then file such certificates, the copy of report inwards, if

Ships putting back are to replenish provisions and repair damages. Sec. 46.

Other passages are to be provided or compensation made. Sec. 47.

Expenses of conveyance is provided for. Sec. 48.

Shipwrecked passengers are to be forwarded. Sec. 49.

Passengers cannot be landed without consent. Sec. 52.

Passengers are to be maintained forty-eight hours after arrival. Sec. 53.

Right of action reserved to passengers. Sec. 54.

Rules are prescribed for order and cleanliness. Sec. 55.

Penalty on disobedience or obstruction. Sec. 56.

Passengers may demand copy of Act. Sec. 57.

Sale of spirits prohibited. Sec. 58.

Passage brokers are not to act without licence. Sec. 61.

Justices may grant licences. Sec. 62.

Persons receiving passage-money are to deliver contract tickets to passengers. Sec. 64.

Such tickets exempt from stamp duty. Sec. 64.

Penalty for parting with or destroying them. Sec. 65.

Trustees of Docks may pass bye-laws for landing and embarkation of emigrants. Sec. 69.

Penalty for falsifying emigration documents. Sec. 71.

Passengers suing are competent witnesses. Sec. 79.

Act to apply to Colonies. Sec. 84.

But not to India except by Act of Governor-General in Council. Sec. 87.

Masters of ships arriving in United Kingdom to deliver lists of passengers. Sec. 88.

Penalty for having more passengers than prescribed by Act. Sec. 89.

Provisions and water to be same as in ships outwards.

Schedules and marginal directions are deemed part of Act, and enforced under penalty.

SCHEDULES.

A. Form of passengers' list.

B. Form of master and owner's Bond.

C. Form of passage broker's bond.

D. Form of passage broker's licence.

E. Form of notice by Justices granting licence.

F. Form of notice by applicants for licences.

G. Form of notice on forfeiture of licence.

H. Form of contract ticket. J. & K. Forms for legal proceedings.

The Act 4 Geo. IV. c. 88, "for regulating vessels carrying passengers between Great Britain and Ireland," is still in force, although some of its provisions are virtually superseded by the Steam Navigation Act, 14 & 15 Vic. c. 79. The following are its chief provisions:—Vessels under

any, of goods reported for exportation, and the victualling bill with a sealed label.


The label filled up and signed by the searcher and collector will be the authority for the ship's departure.⁽¹⁾ Sec. 142.

LIST OF EXPORTS AFTER CLEARANCE.

By this clause the shipper of British manufactures and goods formerly chargeable with import duties, *ad valorem*, is required to deliver to the broker or other person clearing the ship, a duplicate bill of lading endorsed with the quantity and value of the goods. The latter is required, within fourteen days after final clearance, to deliver to the collector or comptroller a list of all the goods, with the quantities and values, from the bills of lading, which are to be annexed, under a penalty on the shipper or broker for

200 tons not to take more than twenty passengers unless by the Customs. Sec. 1. Numbers of passengers regulated in proportion to registered tonnage. Sec. 2. Ships having more passengers than allowed by the Act may be detained. Sec. 3. Ships of 100 tons burthen or under not to carry more than ten, or above 100 tons twenty, persons, exclusive of crew. Sec. 4. Abstracts of Act to be displayed in ships. Sec. 5. The Act 14 & 15 Vic. c. 79 relates specially to steam vessels carrying passengers, and applies equally to sea and river going vessels. As to the former class many of its provisions are superseded, as far as Colonial voyages are concerned, by the Passengers' Act above noticed, but with regard to the latter, it is in full force and effect.

(1) Form of Label—

	<p style="text-align: center;">LABEL.</p> <hr/> <p>Number of Certificates, <i>Twelve.</i> <i>Neptune.</i> <i>John Jones,</i> <i>For Melbourne.</i> Date of Clearance, <i>6th February, 1854.</i></p>
<p><i>E. Scanlan, Searcher.</i> <i>J. Brayaher, Collector.</i></p>	

Under section 146, if any goods shipped be not included, they are forfeited, and so also as to goods included, but not on board.

default, of £20.⁽¹⁾ Such duplicate bill of lading is exempted from stamp duty. *Ib.*

Since the Act passed into a law, the above requirement, not introduced into the original draft, has been dispensed with by Treasury Order, on the application of the mercantile body, on whose suggestion it was introduced. As the order, therefore, now stands in the place of the enactment, it demands particular notice. It dispenses with the extra bill of lading, and the list after clearance, and requires only, except at Liverpool, the delivery at the time of shipment of the shipping bill as contemplated in framing the Act, and described in page 164.

At Liverpool, in lieu of the duplicate bill of lading, an extra shipping bill, giving the actual shipments and the values thereof, is required; but the values in the list are dispensed with.

This dispensation, however, is only conditional; and it is important to observe that the parties failing to attend to the requirements of the Act, are still liable to the penalties consequent

(¹) The origin of this clause may be traced to a suggestion contained in the Report of the Select Committee of the House of Commons on Customs (12th Head), advanced, however, by the Committee with some hesitation, since their recommendation concludes by referring the question, "to the serious consideration of the Commissioners of Customs." It received due consideration at their hands, and, on reference to their published reply of the 25th October, 1852, it will be seen, that they deemed its adoption inexpedient, wherefore, as already observed, it formed no part of the Bill as originally framed in that department, the Shipping Bill appearing to furnish all that the Crown required with the least possible trouble and inconvenience to the exporter. Pending the progress of the bill through the House, the suggestion was again revived, urged upon the Government, and ultimately adopted as it now stands. It was argued that, as the broker or agent, unaided by the exporter, might not be able to furnish the particulars, especially as to value, this penal provision would savour of hardship, if the means were not afforded him of complying with it—for this purpose it was suggested that the shipper should furnish Bills of Lading, with the values endorsed, to enable the broker to prepare the list, and, as these bills could be of no further use to him, when the list was computed and delivered, he was required to annex them to the list as vouchers. These provisions, however, in practice as anticipated by the Customs, proved more inconvenient to the mercantile body than its advocates expected. It has therefore been found expedient, on their own application, to grant relief as stated in the text.

thereon, unless they duly comply with the conditions on which those requirements are waived, particularly, as to the delivery of accurate shipping bills, which are indispensable to the preparation of trade statistics. Delivery of the shipping bill, at or before, the time of shipment, is, therefore, rigidly required.⁽¹⁾

VARIANCE BETWEEN SHIPMENTS AND SHIP'S CONTENTS.

If it be found, on the departure of the ship, that any of the following goods, enumerated in the content, are not shipped, unless duly certified by the proper officer as short-shipped, they are forfeited, viz.:—

Goods liable to duty on importation—goods taken from the warehouse to be exported—and, goods entitled to drawback on exportation.

If any of such goods be shipped, not being enumerated in the content, the master is to forfeit £5 per package, and if any of such goods, having been duly shipped, be landed at any other place than that for which they are cleared, or be not accounted for to the satisfaction of the Commissioners, the master is to forfeit treble the value of such goods. Sec. 143.

Goods shipped, or waterborne for that purpose, without due clearance, or otherwise in violation of the Act, are liable to forfeiture.⁽²⁾ Sec. 144.

SHIPS IN BALLAST.

Before any ship, not having any goods on board, except stores enumerated on the victualling bill, shall depart from the United Kingdom for any foreign destination, the collector or comptroller is to clear such ship in ballast, by notifying such clearance with the date on the victualling bill,⁽³⁾ and deliver it to the master, as the ship's clearance; and the master is to answer any questions put by the collector or comptroller, as to the ship's departure or destination. Sec. 145.

(¹) Treasury Minute, Dec. 30, 1853.

(²) *Vide* also section 119 for general provision as to shipments.

(³) *Vide* section 140 as to the shipment of stores.

SHIPS WITH PASSENGERS ONLY, AND THEIR BAGGAGE.

Ships with passengers and their baggage only, or laden with chalk or slate, are deemed to be in ballast; and, whether laden or in ballast, if any ship, having stores on board, shall depart without being duly cleared, the master is to forfeit £100. *Ib.*

OFFICERS MAY BOARD SHIPS AFTER CLEARANCE.

The officers of Customs may, within the limits of any port of the United Kingdom, or within four leagues of the coast, board any ship after clearance outwards⁽¹⁾, and may demand her clearance; and if any goods be found on board for which certificates are required, not contained in such certificates, or any stores not endorsed on the victualling bill, such goods or stores will be forfeited.

And if any goods enumerated in such certificates be not on board, the master is to forfeit £20 in respect of every package of such goods. Sec. 146.

If, previous to the final departure of any ship on her foreign voyage, any lock, mark or seal, placed by the officers upon any stores on board, be opened, altered or broken, or if any of the stores be secretly conveyed away, the master will forfeit £20.⁽²⁾ Sec. 147.

If the master of any ship do not "bring-to" at the stations appointed for disembarking the officers, or for further examination before her departure, he incurs a penalty of £20.⁽³⁾ Sec. 148.

TIME OF EXPORTATION AND DEPARTURE DEFINED.

The time at which goods shall be shipped on board any export ship is to be deemed to be the time of exportation; and the

(1) As to the boarding of ships inwards, *vide* sec. 48, and, coastwise, section 158; also section 219 as to search and rummage, and 229 as to persons obstructing officers.

(2) *Vide* section 148 as to stores inwards.

(3) *Vide* section 13, p. 78, as to power to appoint these stations; and section 47, p. 106, as to vessels inwards not "bringing-to."

time of final clearance is to be deemed the time of departure.⁽¹⁾
Sec. 149.

GOODS OUTWARDS PROHIBITABLE.

The following goods may, by proclamation, or Order in Council, be prohibited to be exported or carried coastwise.⁽²⁾

Arms,—ammunition,—gunpowder,—military and naval stores,—articles considered by Her Majesty convertible into, or adapted for increasing military or naval stores—provisions or any sort of victuals, which may be used, as human food ;

And if such goods, after being so prohibited, shall be exported or carried coastwise, or waterborne for that purpose, they will be forfeited. Sec. 150.

PRACTICAL INSTRUCTIONS FOR CLEARING GOODS AND SHIPS OUTWARDS.

As to Goods from the Warehouse—The exporter of any warehoused or other goods, for which bond on exportation is required, must fill up and deliver at the Custom House⁽³⁾ a bond note, in the form prescribed by the Act (*vide*, note (1), p. 161,) and give security by bond, in respect of such goods.

If the goods are subject to *ad valorem* duty he should procure a certificate, on the bond note, from the landing surveyor of the station, whence the goods are to be removed, as to the sufficiency of the value. When the bond is executed, the bond note is returned to the exporter, with the certificate at the foot, that security is given. This certified bond note the exporter must then deliver to the Customs' warehouse-keeper in charge of the goods, together with a "shipping bill" in the form prescribed by the Act (*vide* note (1), p. 162,) and an account, with an abbreviated counterpart or slip of the goods, intended to be shipped, which account the warehouse-keeper will then sign, when it becomes, what is termed

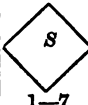

(1) *Vide* section 42 as to time of importation and arrival.

(2) *Vide* section 45 as to prohibitions inwards.

(3) If in London, the bond-clerk in the "Long Room" is the person to receive the bond note.

the locker's order,⁽¹⁾ for delivery of the goods to the searcher for

(¹) The form of Locker's Order varies slightly according to the nature of the goods, the only material difference being between those for wet and dry goods. Printed forms are supplied by the Customs, and it is unnecessary, for the present purpose, to give more than one by way of illustration. The following is the form for dry goods. The abbreviated counterpart or "slip," is delivered to the occupier of the warehouse.


LOCKER'S ORDER. EXPORTATION.							
To the Locker at <i>Nicholson's Wharf</i> . Deliver the undermentioned Goods to the Searchers, Warehoused by <i>John Smith</i> , the 10th day of <i>January</i> , 1854, ex " <i>Albion</i> ," <i>W. Hughes</i> , Master, from <i>Patras</i> .							
Export Mark and No.	Landing Mark and No.	Quantity.	Tare.	Delivery quantity.	Difference.		Exporter, Ship Port where la- den, and Ligh- terman.
					More	Less	
 1-7	A 1-7	Seven Butts of Currants.		130 2 12		8	<i>John Smith</i> , <i>"Neptune."</i> for <i>Melbourne</i> . <i>"Brewer's Quay."</i> <i>Joyce</i> , <i>Ld. Lighter</i> .
		Cwt. qrs. lbs.		21 0 0			
				109 2 12	8	loss	
				109 2 20			
<div style="display: flex; justify-content: space-between;"> Searcher, <i>R. Heath</i>. Locker, <i>J. King</i>. <i>John Thorpe</i>, 4/2/54. Warehousing Department, Legal Quays, &c. </div>							
Received Duplicate Order, 4th day of <i>February</i> , 1854. <i>James Martin</i> , Occupier of Warehouse, or Warehouseman.							
SLIP.							
To the Occupier of the Bonded Warehouse at <i>Nicholson's Wharf</i> . Deliver the undermentioned Goods, Warehoused by <i>John Smith</i> , 10th day of <i>January</i> , 1854, ex " <i>Albion</i> ," <i>W. Hughes</i> , from <i>Patras</i> .							
Mark.	Number.	Quantity and Description of Goods.					
	1-7	<i>Seven Butts Currants.</i> 109 2 20 net.					
<div style="display: flex; justify-content: space-between;"> <i>John Thorpe</i>, Warehousing Department, Legal Quays, &c. Received Duplicate Order, 4th day of <i>February</i>, 1854. <i>Joseph King</i>, Locker. </div>							

shipment, the "shipping bill," is also signed by the Customs' warehouse-keeper and delivered together with the "locker's order" to the exporter, who presents them, to the searcher at the station.

In the ordinary course of business there are certain matters of form requisite according to the nature of the shipment whether alongside the station, or by lighter, or land carriage.

Shipments alongside the Station.—If the goods are put direct from the station of the warehouse into a ship alongside, the exporter fills up an authority for receiving the goods on board. This document is called a "pricking note,"⁽¹⁾ usually printed in red ink. The exporter delivers this to the searcher, who compares it with the "shipping bill," and "locker's order" and re-delivers the latter, signed by himself, to the exporter, who then leaves it with the occupier of the warehouse, and no more is required of the exporter. It is the duty of the searcher to sign,

(1) The following is the form as practically used :—

PRICKING NOTE.		
<p><i>Nicholson's Wharf.</i> <i>Warehouse Goods.</i> To the Tidewaiters on board the Ship "<i>Neptune</i>," <i>J. Jones, Master, for Melbourne.</i> Receive the following Goods by Land from the Quay.</p>		
Shipping Marks and Numbers.	Exporters, and Date of Shipping Bill.	Species of Packages and Goods.
 1—7	<i>John Smith,</i> <i>4th February, 1854.</i>	<i>Seven Butts</i> <i>Currants.</i>
Examined <i>4th February, 1854.</i> <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"><i>R. Heath,</i></div> <div style="font-size: 2em;">}</div> <div>Searcher.</div> </div>		<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;">Received the above-men- tioned Packages on board this Ship <i>4th February, 1854.</i></div> <div style="font-size: 3em;">}</div> </div> <div style="text-align: right; margin-top: 10px;"><i>J. Jones, Master.</i></div>


The term "pricking note" is derived from a practice of noting the tallies of goods into the ship by pricking holes in the paper, corresponding with the number of packages counted into the ship.

stamp and send the "pricking note," by the Customs officer to the export ship.

Removal by Lighter for Shipment.—If the exporting vessel is at a station distant from the warehouse and the goods are to be removed by lighter, the exporter fills up a pricking note, in the same form as before, with the addition of the lighter-man's name, but usually for distinction printed in black ink, instead of red, and delivers it as well as the locker's order to the searcher. The exporter's duty is then complete. The searcher retains the pricking note, until the lighterman applies for the goods, and gives a receipt on the shipping bill for them, when the searcher signs and stamps the "pricking note," and delivers it to the lighterman, to accompany the goods to the export ship. The lightermen are required to give immediate notice to the searchers, if any of the goods be shut out of the vessel, and on no account to take them to any other ship without permission of the searchers.

Removal by Land for Shipment.—If the goods are to be removed by a licensed carmen from one dock or station to another for shipment, the exporter fills up and presents to the Customs warehouse-keeper, together with the "shipping bill," and "locker's order," an additional document, called a "dandy note."⁽¹⁾

(1) The following is the form as used :—

DANDY NOTE.	
To the Locker at <i>Nicholson's Wharf</i> . Deliver the undermentioned Packages for the Searchers at <i>Brewer's Quay</i> .	
Shipping Marks, Numbers, and Descriptions of Packages.	Merchant's Name, Ship, Captain, and Destination.
 1—7 <i>Seven Butts Currants.</i>	<i>John Smith,</i> <i>" Neptune,"</i> <i>John Jones,</i> <i>for Melbourne.</i> Warehousing Department, Legal Quays, &c. <i>John Thorpe.</i> <i>4th February, 1854.</i>
Received the above	<i>R. H., Searcher,</i> <i>4th February, 1854.</i>

The term *dandy* appears to be a corruption of the Latin "*dando*," being the authority for *giving* the goods to the carman.

The Customs' warehouse-keeper signs the "dandy note," and it becomes the authority of the locker at the warehouse, for delivering the goods to the carman. The locker endorses upon it the time of delivery of the goods, and returns it to the carman, to accompany the goods to the searcher at the station from which they are to be cleared.

As to British Plate and Customs' Drawback Goods.—The exporter of British wrought plate⁽¹⁾ and goods entitled to Customs drawback, prepares and delivers to the bond clerk in the long room a bond note in the same form as for warehoused goods already described. He, at the same time, presents to him the "shipping bill" of the goods, and executes the bond. The bond clerk in this case retains the bond note, and re-delivers the "shipping bill" with a certificate thereon, that security has been given. The exporter then prepares a "pricking note" in the same form and manner, whether for shipment from the quay, or by lighter, and delivers both these documents to the searcher. Goods of this class can only be cleared on the station where the ship is loading.

As to Inland Revenue, or Excise Drawback Goods.—The exporter of goods in respect of which drawback of Inland Revenue or excise is claimed, must leave with the searcher a "shipping bill," with the particulars of the goods and claim for drawback endorsed thereon, together with a "pricking note," as in the cases already described, and a document from the officer of Excise, usually called a "shipping notice." The exporter usually remains to see his goods examined by the searcher, but, so far as the Customs are concerned, his duty ends here. The searcher having compared the goods in the "shipping bill" with the endorsement on the "shipping notice," sends the "pricking note" with the goods to the export ship, and in due course certifies the shipment on the "shipping bill," and on the "shipping notice." The latter is retained by the Customs, until applied for by the proper officer of Excise.

(1) If there be a shipment of British plate the exporter must, at the time he delivers the bond note, fill up and make a declaration of the period since which it has been manufactured, that it is stamped with the Goldsmith's Hall mark, and has never been used. *Vide* note (1), p. 160.

As to all other Goods, except in Transit.—The exporter of British manufactures, foreign free goods, and duty paid goods not for drawback, has only to deliver a "shipping bill" in the form prescribed by the Act, (*vide* note ⁽²⁾, page 163, *ante*.) When any of the last-mentioned goods are to be conveyed by lighter to the export ship, the exporter has to deliver a memorandum, called a stamp note,⁽¹⁾ to the searcher, which, when stamped by him, is returned to the exporter, and becomes the authority for receiving the goods on board.

As to Duplicate Shipping Bills and Cocket.—It has already been stated, page 159, in treating of the shipping bill, that duplicates or cockets are required to accompany tea, spirits and tobacco, and exports to Denmark;⁽²⁾ and such duplicates may also be resorted to and converted into cockets, in respect of any other goods, at the option of the exporter.

As to Goods in Transit.—On the arrival of a ship, with goods in transit, at ports approved for the transshipment of goods in furtherance of the voyage to any other country, the master must report the goods in transit, describing them by their specific names. The exporter or transshipping consignee must apply at Long Room of the Custom House⁽³⁾ for a copy of so much of the report inwards, as applies to those goods, from this he there fills up and signs an account or bond note, to the same effect as that used on the export of goods generally. This is usually printed, for distinction, in red ink, and headed

(1) The following is the form used.

STAMP NOTE.		
4th February, 1854.		
Receive on board the " <i>Neptune</i> ," J. Jones, Captain, per <i>Melbourne</i> .		
Mark.	Number.	
G	1—7	Seven Cases.
T	1—2	Two Bales.
To the officer on board.		

(2) *Vide* note ⁽²⁾, p. 159.

(3) If in London this application should be made at the "Report Office," in the Long Room.

"for transshipment only," and is countersigned by the clerk of the report office, and the exporter delivers it to the bond clerk, and enters into bond in the same manner, as before described, the conditions of the bond being adapted to the case.

The Certificate of the bond clerk is then issued, and on the presentation of this by the exporter to the registrar, with the copy of the report inwards and a shipping bill of the goods, an order is given to the trans-shipper, in exchange for those documents, to lighter the goods from the import to the export ship, which must in all cases be accompanied by an officer at the expense of the exporter, for which purpose the exporter applies to the tide-surveyor.⁽¹⁾

The other documents are forwarded to the searcher on the station, where the export ship is taking in her lading, and on the arrival of the goods there, the searcher, having received a pricking note from the exporter, visits the lighter,⁽²⁾ and finding the goods correct, signs, stamps, and delivers the pricking note to the officer in charge of the goods in the lighter, who delivers it, with the goods, to the person in charge of the ship.

It should be observed, with reference to all the foregoing cases of shipment of warehoused, drawback, excise and transit goods, that, after they are put on board the export ship, the pricking notes, which accompany them, must, before clearance,⁽³⁾ be delivered by the master, or broker, to the searcher, who has to clear the vessel outwards.

The pricking notes and other documents are filed and handed

(1) The trans-shipment of silks, spirits, wines, nutmegs, tea, and tobacco, must be completed within three days, and all other goods within six days. If the export and import ship are lying alongside each other, and the entire cargo is to be trans-shipped, the order will be made accordingly, and a searcher appointed to attend the transaction.

(2) When goods in transit are necessarily conveyed from the station of the import ship to that of the export ship by cart, they must be accompanied by an officer at the exporter's expense.

(3) Under the Board's Order the production of the pricking note before clearance is dispensed with, on the lighterman's undertaking to ship or satisfactorily account for the goods, in which case, the pricking note may be delivered to the searcher at any time within twenty-four hours after clearance of the vessel.

in due course to the *jerquer* or proper officers, who check the accounts.

As to clearance of ships outwards.—The mode of clearing the ship, so far as the Customs laws are concerned, has already been described in p. 169 *et seq.* It may however be convenient, here, to observe, that the master, on attending the collector for final clearance, must produce the following documents—

If a British ship with cargo, her certificate of registry, if foreign, her tonnage certificate, the content, the victualling bill, and the certificates, or cockets if any, filed by the searcher, the receipts for light dues from the Trinity House, Dover, and Ramsgate Harbour, and other local dues, if any payable, and, if a British ship, the shipping master's certificate under the Merchant Seamen's Act.⁽¹⁾ If a British steamer, the half-yearly certificate of the Board of Trade under the Steam Navigation Act,⁽²⁾ as to the hull and machinery, &c., if with passengers, the emigration agent's certificate and other documents required under the Passenger's Act. *Vide* note ⁽¹⁾ p. 173 *et seq.* Prior to the clearance of a ship in ballast taking bonded stores, the master must make the usual declaration, before the collector, as to voyage in ballast, &c., give bond for the required stores, and obtain the victualling bill, as shown in p. 169, upon production of which, and with the tide-surveyor's certificate of clearance inwards, the collector will endorse the clearance outwards on the victualling bill.

COASTING TRADE.

The coasting trade of the United Kingdom, familiarly called "coastwise," is understood to mean the trade or intercourse carried on by sea between any one part of the United Kingdom and another; and no part thereof, however geographically situated, is deemed under the Act to be beyond the seas—but should any doubt arise in the prosecution of the coasting trade, as to what shall be deemed a passage by sea, the Commissioners of the Treasury may determine in what cases the trade by water from

⁽¹⁾ 14 & 15 Vic. cap. 96.

⁽²⁾ 14 & 15 Vic. cap. 79.

one port or place in the United Kingdom to another, shall or shall not be deemed a trade by sea, within the meaning of the statute. Sec. 151.

Goods or passengers are not to be carried coastwise from one part of the Kingdom to another, except in British vessels.⁽¹⁾ Sec. 152.

No goods are to be carried coastwise unless laden for that purpose at some port or place in the United Kingdom.

No goods shall be laden on board any ship for carriage coastwise until her foreign cargo, if any, shall have been discharged.

No goods shall be taken into or from any coasting ship at sea or over the sea.

No coasting ship shall touch at any place over the sea, or deviate from the voyage, unless forced by unavoidable circumstances.

If any coasting ship shall touch at any place over the sea, the master must declare the fact, in writing under his hand, to the collector or comptroller of the first port, at which she shall subsequently arrive.

The violation of any of these provisions will subject the master to a penalty of £100. Sec. 153.

TIMES AND PLACES FOR LANDING AND SHIPPING.

The times and places for shipping and landing goods carried coastwise are defined in very nearly the same language as employed in the corresponding sections,⁽²⁾ with reference to imports

(1) This section and section 191 are repealed by the Act of 17 Vic. c. 5, "to admit foreign ships to the coasting trade." By this Act the Queen is enabled to exercise retaliatory powers as in 16 & 17 Vic. c. 107 secs. 324, 325 and 326. Foreign ships engaging in the coasting trade of the United Kingdom and Channel Islands are placed on the same footing as to stores, and in all other respects as British ships. And special provision is made that they shall not be subjected, whilst so engaged, to higher or other local dues, than British ships, and that no compensation shall be given to the claimants of such dues in respect thereof. Lastly, foreign steamers carrying passengers coastwise are subjected to the provisions of the Steam Navigation Act, 1851. 14 & 15 Vic. c. 79.

(2) *Vide* sec. 49, p. 109.

and exports. The shipping and landing are not permitted on Sundays or holidays, nor at any other places, than those approved by the Customs, nor, without the presence or sanction of the officers, under a penalty of £50, payable by the master, besides the forfeiture of the goods. Sec. 154.

MASTER TO KEEP CARGO BOOK.

The master of a coasting ship is to keep a cargo book, in which the following particulars are to be stated :—

The name of the ship ;—the name of the Master ;—the port to which she belongs ;—and, the port to which she is bound.

At every port of lading, he is to enter in such book the following particulars, as far as they are known to him, viz. ;—

The name of the port of lading ;—an account of the goods there taken on board ;—the description of the packages ;—the quantities and descriptions of the goods which they contain ;—the quantities and description of any goods stowed loose ;—and, the names of the respective shippers and consignees ;—and, at every port of discharge of such goods, he is to note ;—the dates of their delivery ;—the time of departure from each port of lading,—and of arrival at each port of discharge.

The master on demand is to produce the cargo book to any officer of Customs, who may make any note or remark therein.

If any package entered as containing any foreign goods be found not to contain such goods, it is, with its contents, to be forfeited, as also foreign goods found, on board and not entered in the cargo book.

If the master fail to keep such book, or to produce it, when required, or if any goods be found on board, either not entered as laden, or noted as delivered—or if any goods entered as laden or noted as not delivered, are not on board, the master will forfeit £20. Sec. 155.

TRANSIRE OR CLEARANCE FOR COASTING SHIPS.

Before the departure of any coasting ship from the port of lading, an account in duplicate, in the form required by the Act

or to that effect,⁽¹⁾ is to be delivered to the collector or comptroller, who shall retain the duplicate and return the original dated and signed by him. The account so returned is the clearance of the ship for the voyage, and the transire or pass warrant for the goods.⁽²⁾ If such account be false, the master is to forfeit £20. Sec. 156.

The Commissioners may, under such regulations as they deem fit, permit general transires to be given in lieu of that prescribed by the Act, but, which may be revoked by notice in writing delivered by the proper officer, to the master or owner of the ship, or to any of the crew on board. *Ib.*

(1) The following is a specimen as used.

TRANSIRE.				
Port of <i>London.</i>				
Ship's Name.	Tonnage.	Port of Registry.	Master's Name.	Whither Bound.
<i>Trident.</i>	<i>246</i>	<i>Belfast.</i>	<i>John Stokes.</i>	<i>Belfast.</i>
36 Chests Tea 17 Boxes		} Foreign.	Duty paid	100 Tilters Sugar
				8 Chests Sago
		1 Hogshead Drugs		
(Signed) <i>John Stokes, Master.</i>				
Cleared the 4th day of <i>February</i> , 1854.				
(Signed) <i>Thomas Hayward</i> , Collector or Comptroller.				

The following articles shipped coastwise are exempt from the coasting regulations by Board's Orders :—

Ashes, viz., coal and soap, for manure.	Ironstone.
Bavins for baker's use.	Kelp.
Bones, intended for manure.	Meat, fresh.
Bricks.	Packages, empty.
Chalk.	Pebbles.
China clay.	Sand.
Chippings of Granite.	Slates.
Faggots.	Stones.
Fish alive.	Straw.
Flints picked off land.	Tiles.
Gravel.	Timber and wood, British, intended
Hay.	for props and sleepers for railways.

(2) If the master depart without transire he will, from non-production of it at the place of destination, be unable to comply with section 157, and cannot unlade his cargo without subjecting it to forfeiture, and under section 158, he will be liable to a penalty of £20 for refusing to produce the transire, being one of "the documents which ought to be on board."

DELIVERY OF TRANSIRE AND UNLADING OF GOODS,

The transire⁽¹⁾ with the name of the wharf for unloading noted thereon, is to be delivered within twenty-four hours after the ship's arrival, and before unloading, to the collector or comptroller, who is to note on it the date of delivery.

Goods, subject to any duties of Excise, are not to be unladen without the authority of the proper officer of Excise.

The following goods are to be unladen subject to the conditions subjoined :—

Goods arriving in Great Britain or Ireland from the Isle of Man, being the growth or produce of that Isle.

Manufactures of the Isle of Man, from materials the growth or produce thereof, or from materials not subject to duty in Great Britain or Ireland.

Manufactures of the Isle of Man, from materials upon which the duty shall have been paid and not drawn back.

The above goods are not to be unladen, until a certificate be produced from the collector or comptroller of the port of shipment to the collector or comptroller of the port of discharge, that legal proof has been made, that the goods were of such growth, produce or manufacture.⁽²⁾

If goods be unladen contrary to these provisions, the master is to forfeit £20, and all coastwise vessels laden or unladen contrary to law, are forfeited. Sec. 157.

CUSTOMS OFFICERS MAY BOARD COASTING SHIPS.

The officers of Customs may board any coasting ship,⁽³⁾ in any port or place, and at any period of the voyage, search her, and examine all goods on board, and demand all the documents, which ought to be on board; and the collector or comptroller may require such documents to be brought to him for inspection.

(1) *Vide* note (*) on section 156.

(2) *Vide* section 349, as to this certificate and the mode of obtaining it.

(3) *Vide* section 48, as to the boarding of ships inwards; section 146 outwards; section 219, as to general power to board, search, and rummage ship; and section 229, as to searching persons on board, or after landing, and obstructions by the latter and their liabilities.

The master failing to produce or bring such documents, when required, is to forfeit £20.⁽¹⁾ Sec. 158.

BRITISH POSSESSIONS.

The next division of the Act, as its title indicates, relates, for the most part, so exclusively to the fiscal regulations of the British Possessions abroad, that it demands, for the purposes of the present work, little more than a cursory review, except, perhaps, with reference to those provisions, which have a direct bearing on the operations of trade between the United Kingdom and those Possessions, and, more particularly, such as affect the neighbouring islands in the Channel, and their intercourse with the mother country. Indeed, it is possible that, on the recent consolidation, the bulk of these retained provisions might, without inconvenience, have been expunged, together with some others then swept away from the Customs Code. The imposition of imperial duties in the Possessions abroad has been abolished; and the collection of their local imposts is now regulated by acts and ordinances of their own, subject only to approval and confirmation by the Home Government, and to the comprehensive provision contained in section 190 of this Act, which declares null and void all local Colonial Acts, bye laws, or customs, that are repugnant to the Imperial Laws, relating to the Customs, Trade and Navigation. The office of collector of Imperial Duties is obsolete, the Crown officers in the Possessions abroad being now denominated comptrollers of Customs and Navigation. Differential duties in favour of British Possessions produce, on importation into the United Kingdom, have almost ceased to exist; those on the important article of sugar, in process of assimilation, being prospectively abolished by the new Tariff in July next, when, of course, those clauses, which provide the machinery for certificates of production, so far as relates to the United Kingdom, will become obsolete.

Pending, however, those fiscal changes, provisions, even temporary in their application, could not with perfect propriety

⁽¹⁾ *Vide* section 156, and note (2), p. 189.

be omitted—especially until full effect be given to the policy of leaving unshackled the government of the Colonies, as far as may be consistent with public safety and the rights of the British Crown. The re-enacted clauses relate more especially to the North American and West Indian Colonies and the Channel Islands.

ABSOLUTE PROHIBITIONS.

The first section, which claims attention, is that, which prohibits the importation or bringing into the British Possessions in America or the Mauritius, either by sea or inland carriage or navigation, the following goods :—

Base or counterfeit coin, and, except from the United Kingdom or any British Possession, gunpowder, ammunition, arms or utensils of war. Sec. 159.

RESTRICTIONS.

The same section prohibits, under pain of forfeiture the importation of the following goods, except to be warehoused for exportation only, into the Mauritius or any of the British Possessions in the continent of South America, or in the West Indies, but not including the Bahama and Bermuda Islands, unless extended to them by Order in Council, viz. :—

Sugar and molasses, until the 5th of July, 1854, such sugar not being refined in bond in the United Kingdom, and rum, such sugar, molasses and rum being of foreign produce or manufacture, or the produce of any British Possession within the limits of the East India Company's charter, with the proviso, that sugar or rum, the produce of any British Possession within those limits, into which the importation of sugar or rum, the produce of any foreign country, or of any British Possession into which foreign sugar or rum may be legally imported, has been prohibited, may be imported into any British Possession in the West Indies and South America, and into the Mauritius, such importations being accompanied by the certificates and proofs of produce required by this section,⁽¹⁾ to entitle them to entry as such. *Ib.*

(1) *Vide* section 178, as to this certificate and the mode of obtaining it.

INFRINGEMENTS OF COPYRIGHT.

Precautions against the introduction into the colonies of printed editions of copyright works are provided, similar to those afforded by the Table of Prohibitions (section 45) and its addendum (section 46), as to the United Kingdom. Sec. 160.

FOREIGN MANUFACTURES BEARING BRITISH MARKS.

Similar measures are adopted to prevent the introduction of spurious imitations of British manufactures.⁽¹⁾ Sec. 161.

GOODS DEEMED FOREIGN.

Sugar and molasses, until 5th of July 1854, and rum (though of British plantations), exported from parts of British America where the like goods, if foreign, may be imported, are, on their importation into those parts of British America or the Mauritius, where such foreign goods may not be imported, or, on their importation into the United Kingdom, to be deemed foreign and liable to duty accordingly, unless duly warehoused and exported from the warehouse. Sec. 162.

Goods and passengers are not to be conveyed from one part of any British Possession in Asia, Africa, or America to another part of the same possession except in British ships.⁽²⁾ Sec. 163.

POSSESSIONS' COASTING TRADE.

The master of any ship arriving in any of the British Possessions or the Channel Islands is required to proceed directly and before bulk be broken to the Custom-house, and to report in the same manner as the master of a ship arriving in the United Kingdom.⁽³⁾ If goods be unladen before report, or the master fail to report, or to report correctly, or to answer truly any ques-

⁽¹⁾ *Vide* note on prohibitions inwards. Sec. 45.

⁽²⁾ By sections 327 and 331, the Queen, by Order in Council, may make such regulations as may appear necessary for the coasting trade of the colonies.

⁽³⁾ *Vide* section 50, p. 109.

tions put to him, he is to forfeit £50, besides the forfeiture of goods. Sec. 164.

ENTRY AND CONTENT OF SHIP.

The master of every ship bound from any British Possessions abroad, except the territories governed by the Presidencies in Bengal, Madras and Bombay, is to deliver to the officer of Customs an entry outwards of the ship, and a content of the cargo, if any, or state, that she is in ballast, if the fact be so, and answer questions concerning the ship, cargo, and voyage in the same manner as on the entry and departure of any ship from the United Kingdom,⁽¹⁾ and the proper officer is to give to the master a certificate of clearance,⁽²⁾ and, if the ship depart without clearance, or if the master give a false content, or do not truly answer the questions demanded of him, he is to forfeit £50.⁽³⁾ Sec. 165.

ENTRY OF GOODS.

Any person entering goods inwards or outwards is to deliver a bill of entry, containing the names of the ship, the master, and the place to or from which bound, and the particulars of the quality and quantity of the goods and the packages, stating also whether they are the produce of the British Possessions in America or not;⁽⁴⁾ whereupon the officer will grant his warrant for the lading or unlading. Sec. 166.

GOODS LADEN OR UNLADEN WITHOUT ENTRY FORFEITED.

No goods are to be laden or unladen, under pain of forfeiture, in the British Possessions of America or the Channel Islands without entry and warrant, nor, if in the Channel Islands, at any

(¹) *Vide* section 142.

(²) This certificate is required by section 77 on importations into the United Kingdom.

(³) By section 205, clearance from Channel Islands is required on pain of forfeiture, &c.

(⁴) By section 78, the Treasury may make regulations as to certificates of production.

place, except where a Customs' officer is appointed to attend, or for which a sufferance or permission to lade or unlade goods is given, nor without the presence or authority of the officer.

The Commissioners of Customs may make regulations for the carriage coastwise or removal of goods for shipment in the Channel Islands.⁽¹⁾ Sec. 167.

GOODS FROM ANY POSSESSION NOT CLEARED AS SUCH DEEMED
FOREIGN.

Goods from any British possession, not stated in the certificate of clearance as the produce of such possession, are, on importation into any other possession, to be deemed foreign.⁽²⁾ Sec. 168.

WHERE THERE ARE NO CUSTOMS OFFICERS THOSE OF THE
CIVIL SERVICE TO ACT.

Where there is no resident officer of Customs, the duties of such officer are to be performed by the principal officer in the Civil Service of Her Majesty or his representative. Sec. 169.

TIMBER SHIPS TO HAVE THEIR CARGO BELOW DECK.⁽³⁾

Before any clearing officer permits any ship wholly or in part laden with timber and wood goods to clear out from any British

(1) *Vide* sections 199 to 204, as to regulations with respect to small craft, and note thereon.

(2) By section 78, imports into the United Kingdom, without certificates, are deemed foreign.

(3) The object of these provisions cannot be better explained than by a transcript of the recital, under which they were first introduced into the Statute Book. The 5 & 6 Vic. c. 17, passed "for the regulating of the carriage of cargoes of timber for one year," recites that "great loss of life and severe sufferings have been occasioned amongst the crews of ships and vessels laden with timber and wood goods from *British* ports in *America*, from the practice of having a portion of the cargo of such ships stowed on or above deck," and proceeds to interdict it. These provisions are perpetuated by 8 & 9 Vic. c. 45, and repealed by c. 84, and re-enacted by c. 93 of the same session, and now embodied in this Act. It will be observed, that the clearance of ships with cargo on deck is expressly forbidden, except as to store spars, and articles necessary for the ship's use. The privilege as to the latter not being defined, should the officer deem such spars, &c., excessive in quantity, he ought not to give

port in North America, or in the settlement of Honduras, for any port in the United Kingdom, between the first of September and the first of May, he must ascertain, that the whole of the cargo is below deck, and shall give the master a certificate to that effect; and no master of any ship so laden shall sail without such certificate. Sec. 170.

When such certificate is obtained, no part of such cargo is to be placed or remain upon or above the deck, until the ship reaches her destination, unless the Master considers it necessary for the safety of the ship, in case of leakage or damage *during the voyage*. The store, spars, or other articles necessary for the ship's use are not deemed cargo. Sec. 171.

If any Master sail or attempt to sail without such certificate, or place any part of the cargo on or above the deck, contrary to the foregoing provisions, he is liable to a penalty not exceeding £100. Sec. 172.

TONNAGE DUES IN CANADA.

The tonnage dues in the Canadas and United States are to be reciprocal. Sec. 173.

PRODUCE OF STATE OF MAINE PRIVILEGED.

With reference to the treaty of the 9th August, 1852, certain produce of the parts of the State of Maine, watered by the river St. John and its tributaries, is put on the same footing as the produce of New Brunswick. Sec. 174.

NEWFOUNDLAND FISHING BOATS.

Particular regulations are made with reference to vessels clearing for the Newfoundland fisheries by Sec. 175.

CERTIFICATES OF PRODUCTION OF SUGAR AND SPIRITS.

Before any spirits or sugar are to be shipped for exportation in any British possession in America or the Mauritius as the pro-

the certificate. If the master venture to sail without the certificate, the responsibility rests with him to show good cause for its non-production on arrival.

duce thereof, the producer, the exporter, and the master of the ship in which such spirits or sugar are to be laden, are required respectively to subscribe a declaration before the Officer of Customs, that they are the produce of such possession, giving the names of the exporter, the ship, and the master, as well as the destination and other particulars required by the Act, on pain of forfeiture of the goods ; and if such goods be imported into any British American possession, as the produce thereof, or of the Mauritius, without certificate,⁽¹⁾ they will be forfeited. Sec. 176.

COLONIAL EXPORTS AND RE-EXPORTS.

Regulations are prescribed, as to the exportation and re-exportation of sugar and spirits between the colonies, for which see the Act. Sec. 177.

CERTIFICATES AS TO SUGAR AND WINE.

Regulations are also made for furnishing the certificates of production, required by sections 80 and 84 on the importation of East India sugar and British Possessions wine into the United Kingdom, for which see secs. 178 and 179. App. pp xci and xcii.

EXPORTS FROM CHANNEL ISLANDS.

On exportation from the Channel Islands to the United Kingdom, or into British America or the Mauritius, of goods, the growth and produce of the Channel Islands or of the United Kingdom, or manufactured in those islands from such produce or from materials either duty free in the United Kingdom or duty paid, and not drawn back, the exporter is to make a declaration of the facts before a Magistrate ; and the Governor, Lieutenant Governor, or Commander-in-Chief of the Island, on delivery to him of the declaration, will grant a certificate of such proof, stating therein in what ship the goods are to be exported and her destination ; and such certificate is to be produced at the place of destination, as evidence of such growth, produce, or manufacture.⁽²⁾ Sec. 180.

⁽¹⁾ A similar certificate is required on importation into the United Kingdom. Sec. 79, p. 137.

⁽²⁾ *Vide* section 83, and note ⁽¹⁾ p. 228, *et seq.*

SUMMARY OF GENERAL PROVISIONS RELATING TO BRITISH
POSSESSIONS.

The next ten sections are of a miscellaneous character, peculiarly colonial in their application, and may, for the present purpose, be sufficiently described, as conferring upon officers of Customs in the colonies similar powers to those given to officers at home—providing for the condemnation of seized ships and goods—the course of procedure for recovery of penalties in the Colonial Courts of Admiralty—the application of such penalties when recovered—the right of the defendant to appeal, and the conditions upon which that privilege is conceded—the transfer to the ships and officers engaged in the suppression of the slave-trade, of every facility for making seizures, detaining slave-ships, prosecuting offenders, and enforcing forfeitures and penalties, which is given to the officers of Customs under the Act; and, lastly, the provision already alluded to, nullifying any colonial law, which conflicts with imperial legislation. Secs. 181 to 190. App. p. xciii, *et seq.*

CARRYING TRADE WITH THE CHANNEL ISLANDS.

The carrying of goods and passengers between the United Kingdom and the Channel Islands,⁽¹⁾ and between those islands *inter se*, is confined to British ships.⁽²⁾ Sec. 191.

RESTRICTIONS ON IMPORT AND EXPORT OF SPIRITS INTO AND
FROM THE CHANNEL ISLANDS.

No spirits (except British Plantation rum) are to be,—imported into—or exported from—or removed from any one to another—or carried coastwise from one part to another—of the Channel Islands—or shipped in order to be removed—in any ship of less than 50 tons burden—or in casks of less size or content than twenty gallons, on pain of forfeiture of the goods, ship, or boat, as the case may be; but, these provisions are not to apply

⁽¹⁾ Pilots are not required for ships arriving in England from the Channel Islands or Isle of Man, laden with stone. *Vide* section, 8 & 9 Vic. c. 86 sec. 45. App. p. cxviii.

⁽²⁾ This section, and the corresponding provision with respect to the home coasting trade (sec. 152), are repealed. *Vide* note ⁽¹⁾, p. 187.

to spirits—imported in glass bottles, as part of the cargo—nor to spirits for the consumption of the crew and passengers during the voyage, and in necessary quantities only—nor, to warehoused goods exported from the United Kingdom in vessels of not less than 40 tons burden, being regular traders to those islands—⁽¹⁾ nor, to boats of less than 10 tons, conveying supplies to Sark of foreign spirits, to the extent of 10 gallons at a time from those islands, such boats being duly licensed to carry supplies to that island. Sec. 192.

IMPORTATION OF TOBACCO, &c., INTO THE CHANNEL ISLANDS.

Lastly, no tobacco, cigars, or snuff are to be imported into the Channel Islands, unless—in ships of not less than 120 tons burden⁽²⁾—and in hogsheads or cases, containing not less than 200 lbs. net weight—and in packages containing not less than 100 lbs. net weight of cigars.

This restriction, however, does not extend to importations from the United Kingdom into those islands, which may be made in ships of not less than fifty tons burden—or in regular traders of not less than forty tons⁽³⁾—and in packages of the same weight as may be imported into the United Kingdom ⁽⁴⁾. Tobacco imported into the Channel Islands contrary to the above provisions—or found on board any ship or boat within one league of their coasts—will be forfeited. Sec. 193.

Malta and its dependencies are deemed to be in Europe.⁽⁵⁾ Sec. 194.

⁽¹⁾ *Vide* sections 212, 213 and 214, as to the liability of vessels, &c., for smuggling.

⁽²⁾ By Treasury Order of 18th October, 1853, authority is given to the Board of Customs to permit the removal of tobacco, &c., should they see fit, in vessels of 50 tons or 40 tons, if regular traders with the Channel Islands.

⁽³⁾ For a similar provision as to the trade from the United Kingdom to the Channel Islands, see section 117.

⁽⁴⁾ *Vide* section 44.

⁽⁵⁾ By dependencies, the Island of Gozo, or Gaudisch, as the natives call it, is intended. For some interesting particulars, as to the geographical extent, trade, laws and customs of this island, and of the larger island to which it is annexed, see Clark on Colonial Law, pp. 711 to 722. The above provision became necessary in consequence of the repeal of the corresponding one in 3 & 4 Wm. IV. c. 52.

CHAPTER IV.

BONDS.

The frequency with which Bonds, or writings obligatory, have been referred to throughout the antecedent provisions of the Customs Code cannot have failed to be noticed. The practice of regulating and controlling revenue engagements by a description of contract of proved utility in other relations of life, would seem to have originated in a judicious perception of the necessities of Commerce.⁽¹⁾ It reflects no slender credit for moderation on

(¹) The history of bonds to the Crown has been traced by a distinguished legal writer. It appears that almost contemporaneously with the enactment of the great body of statutes, which constituted the foundation of the public revenue, the attention of the Court of Exchequer was, in a great measure, occupied with the determination of matters arising out of the operation of those statutes. The crown debts arising from Parliamentary imposts, as now constituting the royal and national fiscal resources, absorbed almost the whole time of that Court. Inquisitions, *post mortem*, and *ousterle-mains* gave way to writs of *diem clausit extremum* and *amoveas manus*. *Escheats* and inquests of office were succeeded by seizures and commissions, forfeitures for offences against the navigation and revenue laws and informations for duties and penalties for frauds upon the Customs and Excise. Those persons, who had formerly been only accountants of the King, were easily converted into debtors, security in anticipation being generally taken from them in the shape of bonds and recognizances. The *distringas* and process *nomine districtionis* were superseded by the proceeding by *scire facias* on such bonds and recognizances, and by extents *in chief* and *in aid* against the obligors and cosurers themselves, and their sureties, and their lands and their debtors. The Court of Exchequer having become thus occupied with proceedings on those bonds, obligations, recognizances, and other specialities taken to the King in the King's Remembrancer's Office, the Treasurer's Remembrancer's Office had become nearly a sinecure. On the other hand, that of the King's Remembrancer's Office attracted to it almost the entire revenue business of the Court. Bonds to

the Customs laws, that they assume a penal character only when crime defies every milder restraint. Nor, is it less creditable to the character of our mercantile community, that securities involving a purely civil liability have, after the experience of a long course of years, been found efficacious enough to maintain that honest faith to the Crown, which dispenses with the necessity of too rigorous an interference with trade, and, without foregoing proper guarantees for upright conduct, claims and justifies official confidence. Thus it happens, that a vast proportion of the transactions between the merchant and the guardians of the Customs Revenue proceeds upon a species of civil contract, whilst the penal and criminal arm of the Customs law deals no blow, until some gross and fraudulent infraction of the obligations it enjoins, requires its interposition. Adopting thus largely this form of security, the law provides, that the bonds of minors shall be deemed valid, notwithstanding the established general principle, that bonds by infants are void *ab initio*, and cannot be confirmed after majority. But, this provision is not without its advantages to the subject as well as the Crown; where persons, having attained sufficient discretion, though not arrived at the strict point of legal majority, are empowered by law, to enter into bond.

Regulating, as bonds do, a large share of Customs and mercantile operations, the Act provides for the continuance and validity of all existing engagements of that nature. It also provides, that every bond relating to the Customs or for the performance of any condition relating thereto, is to be taken to the use of Her Majesty and, with the exception of warehousing bonds, which are of a comparatively enduring character, a period of three years is prescribed, as that, at the expiration of which, assuming the purposes

the Crown had multiplied in proportion, as the Rolls of the King's rents, and his certain revenue had become diminished, and nearly all those bonds being given in respect to the Customs or Excise, and appertaining to that part of the revenue that were *in fieri*, were returned into the King's Remembrancer's Office. Numerous prosecutions were soon generated by the frauds and evasions, which were practised or attempted, the imposition of largely increased duties by Parliament, furnishing a powerful incentive to an infringement of the law.—*Vide Price' Law of Exch.*, pp. 26, 27.

of the bond to be satisfied and its conditions fulfilled, the Commissioners of Customs may allow it to be cancelled.⁽¹⁾ Sec. 195.

JUDGMENTS ON BONDS MAY BE SATISFIED ON COMMISSIONERS
CERTIFICATE.

If the Bond be entered or registered in accordance with the Acts for the entering up and registering judgments on bonds in England or Ireland, and its condition be satisfied, the obligor may obtain a certificate to that effect, from the Commissioners of Cus-

(¹) The eighth section of the 2 & 3 Vic. c. 11 provides *inter alia* that no judgment, or *obligation*, or *specialty* made to Her Majesty in pursuance of the 33rd Hen. VIII., is to affect lands, &c., as to purchasers or mortgagees unless and until a memorandum or minute, containing the name or last place of abode, and the title, trade, or profession, and, in the case of an obligation or specialty, the sum for which the *obligee* (*sic in the authorised edition of the statutes*) shall be bound, and the date of the same, &c., shall be left with the Master of the Court of Common Pleas, who is forthwith to enter the said particulars in a book, to be intituled, "The Index to Debtors and Accountants to the Crown," in alphabetical order, by the name of the person, whose estate is intended to be affected by such *obligation*—and sections 9 and 10 prescribe the mode by which Crown debtors may obtain a *quietus*, but which is not likely to be acted upon in preference to the direct, summary, and inexpensive means, afforded by this new provision in the Customs' Consolidation Act, though the option is still open to those debtors to resort to the mode of *quietus*, sanctioned by the 9th and 10th sections of the 2 & 3 Vict. c. 11. It may be worthy of remark, that that Act contains no provision for the registration of Crown debts every five years, as in the case of judgments. The Irish Acts to the same effect are the 7 & 8 Vic. c. 90, and the 11 & 12 Vic. c. 120. In the administration of assets, all debts due to the Crown upon record or specialty must be paid in preference to any judgment or other debt due from the deceased debtor to a subject, 4 Barn. & Cress., 416n., and a debt by simple contract due to the Crown is to be preferred to a debt by bond due to a subject, Park. Rep. 104. It is proper here to observe that, under the Act of 6 & 7 Wm. IV. c. 28, and the amending Act of 1 & 2 Vic. c. 61, persons, who, instead of giving security by bond, prefer to transfer or deposit stock or Exchequer Bills, may do so in the joint names of the heads of Government Departments and their own. Provision is made, enabling the depositors to receive their own dividends.

A further alternative is afforded, of giving security, through the medium of the British Guarantee Association, of which many persons avail themselves, choosing rather to pay the premium required by the Society, than solicit friends to become sureties for them. The security afforded by this Association for such purposes has been approved by the Government.

toms in the form prescribed by the Act, on production of which to the proper officer for entering or registering Judgments in either country, satisfaction will be entered. Sec. 196.

PARTIAL DISCHARGE OF JUDGMENT DEBTOR'S ESTATE.

Under the former Statutes, great inconveniences were experienced by the obligors of bonds, upon which judgments had been entered up, owing to the effect of such judgment, as constituting by such entry, a specific charge upon the real and personal estate of the debtor. The estate, however valuable and extensive, became, by the entry of the judgment, wholly charged by it, whilst the debt due to the Crown might be of inconsiderable amount. The debtor could not, under such circumstances, dispose of any portion of the lands so charged, without a circuitous, dilatory and expensive course of proceeding. To remedy this, the Commissioners are now empowered, when satisfied of the reasonableness of the application, to issue a certificate under their hands exonerating from the operation of the judgment any portion of the debtor's estate. To facilitate this, a simple form of certificate is given in the Act.⁽¹⁾ Sec. 197.

MAKING FALSE DECLARATIONS AND ANSWERS, COUNTERFEITING DOCUMENTS, &c.

A penalty of £100 is imposed on any person guilty of any of the following offences ;⁽²⁾—Making or subscribing a false declaration, certificate, or other instrument.—Or, any false declaration for the consideration of the Commissioners.—Not answering truly questions put by officers. Counterfeiting or falsifying any document, relating to the Customs.—Or, wilfully using documents so counterfeited or falsified.—Fraudulently altering any document or instrument, or counterfeiting the seal, signature, initials, or other

(1) The facts having been brought under the consideration of the Commissioners on the application of the person seeking relief, and the request conceded, he has only to furnish the proper description of the lands or premises to be released, to the Solicitor for the Customs, who will thereupon procure the completion of the requisite certificate without charge.

(2) By sections 52 & 53, the like penalty is specially imposed on masters of ships making false answers, &c.

mark of, or used by, the officers of Customs for the verification of such document or instrument, or for the security of goods, or, any other purpose in the conduct of business, relating to the Customs, or under the control of the Commissioners or their officers. Sec. 198.

RESTRICTIONS AS TO SMALL CRAFT.

The Commissioners of Customs are charged not only with the duty of prosecuting all detected frauds upon the Revenue, but of preventing by anticipation, as far as possible, the commission of such offences. Hence, powers are given to them for the regulation and control of vessels under one hundred tons burden. The provisions of the law were very stringent, until within the last few years, with respect to the small craft around the coasts, which being the most convenient vehicles for smuggling, and of little value in comparison with the duties on the goods they were too frequently employed to convey, the necessity for vigilant control and supervision was obvious. Hence, the old law contained very rigid and penal provisions, and prescribed, at the same time, a system of security by licenses and bonds, which imposed considerable trouble on the owners of vessels, as well as the Customs. The improvements effected in our fiscal system and the removal of inducements to contraband trade by the reduction in duties appearing to justify a relaxation of these severe enactments. They were repealed in 1829, and the discretionary power, re-enacted in the provisions under consideration, was given to the Commissioners, who immediately acted upon them by promulgating regulations, relieving the great majority of the owners of small craft from the trouble involved in the licencing system, and the inconvenience attendant on giving bonds. The limits within which such vessels should be employed were laid down by general rules, instead of being prescribed by licence in each particular case, and these rules have again undergone further revision and relaxation.⁽¹⁾ The powers conferred by the Act may be briefly

(1) The following is an abstract of the regulations now in force.

REG. 1. Vessels under fifteen tons burden and open boats are limited to four leagues, seaward, from the coast between the North Foreland and Beachy Head; eight leagues, seaward, from any other part of the coast.

described, as giving the Commissioners a discretionary authority

REG. 2.—Open and half-decked vessels above fifteen tons are limited to four leagues, seaward, from the coast between the North Foreland and Beachy Head; twelve leagues, seaward, from any other part of the coast.

REG. 3.—Decked vessels and boats under forty tons are limited to four leagues, seaward, from the coast between the North Foreland and Beachy Head, and twelve leagues, seaward, from any other part of the coast, except those parts of the coasts of England and Ireland, which lie opposite each other.

REG. 4.—Vessels under one hundred tons are not to carry arms for resistance, nor more than one carriage or 'swivel gun, without shot, for distress signals, nor more than two muskets or fowling pieces for every five men.

REG. 5.—Vessels under forty tons belonging to the Channel Islands are limited only northward four leagues from the Caskets.

REG. 6.—Manx vessels under forty tons are limited to eight leagues, seaward, from the island.

Note.—These regulations do not apply to steam vessels nor their boats whilst so employed, nor to vessels employed in pleasure, and not for hire, nor to vessels *bond fide* employed in fishing, or assisting ships in distress, beyond the limits, the Commissioners of the Customs or the collector or comptroller, being satisfied as to the facts, and the masters and owners of the vessels being men of good character.

REG. 7.—No extension of limits is allowed unless on application from the owner to the Commissioners, showing the ground and object; whereupon if the Commissioners or collector and comptroller are satisfied, and (having regard to the general character of the owner and master, and other circumstances,) approve the extension of the limits, special licence for such time, and under such conditions as they see fit, will be granted.

REG. 8.—When any vessel is required in case of emergency to carry Government messengers and despatches on Her Majesty's service to the opposite coasts of the continent of Europe from Dover, Folkestone, or other ports approved by the Commissioners, the collectors, comptrollers, or other authorised officers being satisfied of the facts, may grant a pass, endorsing the object of the voyage, the destination, and the time of departure, and the master immediately on his return is to deliver to the collector, comptroller, or other acting officer at the place of arrival, the pass with a certificate thereon under the hand of the messenger conveyed, or of the party receiving the despatch, of the time of landing or delivery, proving that the object of the voyage has been carried out within a reasonable time.

Reg. 9.—These regulations commenced from the 5th January last, but all licences granted before that day are deemed valid until revoked.—G. O. Dec. 22nd, 1854.

NOTICE.—Any vessel used, armed, navigated, or employed beyond the

to prescribe with reference to the tonnage, build, or description of vessels under one hundred tons burden ;⁽¹⁾ the limits within, and the manner in, which they may be employed, and, if armed, the number and description of arms and the quantity of ammunition. And the Act still gives the Commissioners power to grant special licences, on such terms, as they may deem expedient, in cases, where parties may have occasion for an extension of the privileges conferred by the general regulations.

Incident to the power of making general regulations, that of rescinding, altering and varying them, is conferred. Infraction of those regulations, or of the conditions of licences, when granted, is punishable by forfeiture of the vessel, and that forfeiture extends to licenced vessels found without having their licences on board. Sec. 199, and 202 inclusive.

SMALL CRAFT CONVEYING UNCUSTOMED OR PROHIBITED
GOODS FORFEITED.

Any vessel of the class above described, removing or conveying prohibited or uncustomed goods is forfeited,⁽²⁾ and the owner and master are each liable to a penalty equal to the value of the vessel, but not exceeding in any case £500. Sec. 203.

THE REGULATIONS AS TO SMALL CRAFT TO EXTEND TO
THE CHANNEL ISLANDS.

All the regulations now in force, or hereafter to be made, with respect to small craft, are to extend to the Channel Islands. Sec. 204.

SHIPS, &c., NOT TO SAIL FROM CHANNEL ISLANDS
WITHOUT CLEARANCE.

A further provision, with respect to those Islands, requires, that any ship or boat, owned wholly or partially by British subjects,

limits assigned by, or contrary to the regulations, is liable to forfeiture, unless the vessel has on board a special licence or pass, for the purpose under the 7th and 8th Regulation.

(¹) These restrictions were, under the now repealed Act, extended to vessels of 170 tons burden.

(²) By section 222, all vessels, carriages, &c., used in conveyance of smuggled goods, are forfeited.

sailing from them, is to have a clearance, whether laden with cargo or in ballast. If with a cargo, the master is to give bond in double the value for its due landing at the port of destination. Such ship or boat without a clearance,⁽¹⁾ or with a clearance, being found light, or having discharged any part of the cargo, before arrival at the port or place for which cleared, will be forfeited. Sec. 205.

FURTHER PROVISIONS AS TO SHIPS GENERALLY.

The owner of every ship, belonging wholly or in part to British subjects, is required to paint outside the stern of each of her boats the name of the ship, and of the place to which she belongs, and inside the transom, the name of the master, in white or yellow Roman letters, not less than two inches in length, on a black ground; and the owner of any boat, not belonging to such ship, is required to have his name and that of the port to which she belongs, painted in a similar manner on the stern, on pain of forfeiture. Secs. 206 and 207.

SHIPS HAVING CONCEALED PLACES FOR RUNNING GOODS.

Another restraint upon frauds on the Revenue is provided by a statutory rule, that British ships having false bulk heads or bows, double sides or bottoms, or any disguised place for the concealment of goods, or any pipe or device for running goods, will be forfeited. The same penalty attaches in respect of foreign ships coming into the United Kingdom, having dutiable or prohibited goods concealed in, or by means of, similar fraudulent contrivances. Sec. 208.

SMUGGLING.

Smuggling, according to Blackstone, is the offence of importing or exporting goods without paying the duties imposed on them by the laws of Customs and Excise. But, there are various things

(1) The master is without excuse, if he sail without a clearance, for by section 165, p. 194, the proper officer is bound to give him a clearance on his complying with the conditions thereby required.

which, though not coming strictly within that definition, but partaking of its character and obviously directed by the same design, amount to smuggling under the Customs laws, and are visited according to the degree of guilt by appropriate punishments.

It is not only with the leading and direct offence of smuggling, therefore, but with the various shades of offence, which may be committed in aid of it, that the succeeding sections of the Act deal. These extend from 209 to 253 inclusively; the first twenty applying to cases of forfeiture of the vessel or goods, or both conjointly, and the remainder, to acts, the responsibility of which attaches personally to the offender. In both classes of cases it has been deemed expedient, though not without some very important modifications and improvements, to re-enact the provisions of the 8 & 9 Vict. c. 87.

Under the first of these sections, as to smuggling, all goods enumerated in the subjoined classification, together with any goods found packed with, or used in concealing them, are liable to forfeiture.⁽¹⁾ Dutiable goods unshipped in the United Kingdom, Customs or other duties not being paid or secured.⁽²⁾

(1) By section 232, persons concerned in these illegal transactions, are liable to penalties.

(2) The term "secured," as here used, applies to the mode in which the Crown obtains cognizance of, and charge over, goods imported, for security of duty, from the time of importation, until the duty is actually paid, or the goods exported or otherwise accounted for. This can only be understood by reference to the several provisions of the Act, by which the security is prescribed.

1st. The general supervision by officers boarding import ships. Secs. 47 and 48.

2ndly. The report of the master of the ship, by which the Customs are, or ought to be, apprised of all the goods imported as the foundation for their operations. Secs. 51, 61 and 62, 65 to 68, and 74.

3rdly. The entry by the importer, consignee, &c., of the goods, according to their character and attendant circumstances, for duty, sec. 55; for the warehouse, sec. 58; as free, sec. 60; by bill of sight, secs. 61 and 62; as reimported, sec. 65; entries generally, secs. 66, 67 and 68; by master or owner, sec. 74.

4thly. The proper authority for unshipping.

If these goods be unshipped without compliance with the foregoing

Prohibited goods imported into any part of the United King-

regulations, it is an unshipment of goods, the duties not being first secured. *Vide* note, (1) p. 112.

From the moment when due entry ought to be made, and is not made, goods are to be deemed illegally unshipped, and subject to the consequences of being so; and those persons only, who are afterwards concerned in removing or harbouring them, knowing them to have been illegally unshipped, that is, knowing that a perfect entry has not been made or that the duties have not been paid, are liable to the penalties. Per Parke, Baron, in the *Att.-Gen. v. Hursel*, 11 Mee. & W. 589.

The unshipping of goods, though in some cases not unlawful *ab initio*, may become so by reason of any subsequent fraud. Per Baron Rolfe in *Regina v. Candy*, Exchequer, 15 May, 1843, MSS. Rep. "In strictness," said the learned Baron, in his charge to the jury, "the duty, before the goods can be landed, ought to be paid—*primâ facie*, it is an obligation to pay the duty before the goods are landed, but, inasmuch as that is often impossible, because the consignees cannot state, what the goods are and the particulars cannot be declared, the Act of Parliament has enacted, that it shall be lawful for the parties, on making a certain declaration, to land goods in the first instance, by what is called a bill of sight—that is to say, to cause them to be landed, in order that the contents of the packages may be examined, that the correct duty may be charged. Although they then are in one sense unshipped without the payment of the duty, yet the law says, that shall be lawful with this proviso added to the enactment, that, if after that, any fraud takes place, whereby they are illegally removed without paying the duty, then that authority to land on a bill of sight should be deemed as it were, as if it had never been given, and the whole transaction shall be illegal from the beginning. That I understand to be what was ruled by Lord Abinger the other day, and I, in deference to him, if I had thought otherwise, should have given the same direction in point of law, but I do not at all shelter myself from responsibility under the authority of his direction, for undoubtedly, if there had been no such direction, I should have given the same in point of law. I conceive, although *primâ facie*, it was lawful to land, in order that the goods should be examined, yet, if that was only part of the scheme of the parties, to get them by some contrivance fraudulently, and abstract them without paying the duty, the whole thing is one transaction, and it is altogether an illegal unshipping."

There must be a fraudulent removal of the goods to render their unshipment illegal. A removal with the proper sanction of the Customs will not make the transaction illegal *ab initio*. "In my opinion," says Baron Rolfe, in the same charge, "if there is no fraud,—if the parties *bona fide* land their goods under a bill of sight to have them examined, and are then (perfectly intending to do right) told by the authorities at the Custom House, that the duties are so and so, and they are at liberty by reason of these being fancy goods, to remove them and pay the duty, a fortnight or some other time hence, and

dom.⁽¹⁾ Goods clandestinely or illegally removed from any warehouse,⁽²⁾ or other place of security, in which they may have been deposited for home consumption or exportation. Goods prohibited to be exported, put on board any ship or brought to any quay or other place to be shipped for exportation. Goods prohibited to be exported found in any package produced to any officer as containing goods not so prohibited. Goods subject to duty or restriction on importation or prohibited to be imported, found concealed on board any ship or boat within any port in the United Kingdom. Goods of the latter class found, either before or after landing, to have been so concealed on board in such port. Sec. 209.

they *bond fide* (always assuming that) intend to do right, having the goods fairly examined, and being told, that is the duty, and the only irregularity is (for it is an irregularity), that the goods are removed one day, and the duty not paid, until that day fortnight, by direction of the authorities, being told it is lawful for them to do so, they afterwards, paying all the duty,—I must own, until I have very distinct authority to show me, that it has been decided, that this is a violation of the Act of Parliament, I never can so direct a jury. The penalties are imposed upon persons, who shall be concerned in *unshipping*. I think by all the context, it must mean, illegally unshipping without paying the duties on the goods, or causing them to be removed without payment of the duties. Now, suppose for instance, a party has goods (and I wish, in these observations, to be considered as addressing myself to the bar,) and for the mutual convenience of himself and the Customs, has given abundant security to the Customs, that all duty shall be regularly paid, and the Customs say, it is more convenient to settle it every fortnight, can it be said, that the party has violated the law, because he has done that which the Customs told him to do? I never can hold, that that makes the having landed those goods an illegal unshipping of them, within the meaning of the Act of Parliament."

(¹) Contraband goods may be seized in the river before they are landed or offered for sale. *Smith v. Reynolds*, 2 Wils. 257. *Johnson v. Saunders*, 1 B. and P., 267. *Att.-Gen. v. Delano*, 6 Price, 383.

(²) The statute 3 & 4 Wm. IV. c. 53, s. 44, (*corresponding with this section*) enacts, that goods taken or delivered out of any warehouse, not having been duly entered, shall be forfeited. The King's warehouse is a warehouse within this clause. *Att.-Gen. v. Vondiere*, 1 C. M. & R. 571. 5 Tyr. 211; *Loce v. Att.-Gen.* 2 C. M. & R. 544; 1 Gale, 249; 5 Tyr. 1133.

REMOVAL OF SPIRITS AND TOBACCO WITHOUT PERMIT.

Spirits and tobacco found removing without permit or certificate,⁽¹⁾ are to be deemed unshipped without payment of duty, unless the contrary be proved by the person in whose possession they are found. Sec. 210.

RESTRICTED GOODS SEIZED, TO BE DEEMED RUN.

In proceeding to enforce any forfeiture or penalty in the case of goods seized under the Customs or Excise laws, the importation of which is in any way restricted, such goods are deemed liable to, and unshipped without payment of, duty, unless the contrary be proved, and it is sufficient so to describe them in the information. Sec. 211.

SHIPS ILLEGALLY USED WITHIN CERTAIN DISTANCES, FORFEITED.

If any ship or boat belonging, wholly or in part, to British subjects, or having half the persons on board such subjects, be found or discovered to have been within four leagues of that part of the coast, which lies between the North Foreland and Beechy Head, or within eight leagues of any other part of the coast of the United Kingdom—or, if any foreign ship or boat having on board one or more British subjects, be found or discovered to have been within three leagues of the coast of the United Kingdom—or, if any foreign ship or boat be found or discovered to have been within one league of the United Kingdom,—or if any ship or boat be found or discovered to have been within one league of the Channel Islands—the ship or boat so found or discovered to have been within the distances so respectively defined, having, or having previously had, on board, or attached thereto, or conveying, or having conveyed, any spirits in vessels of less than twenty gallons content at the least—or, tea exceeding six pounds weight in the whole—or, tobacco or

(1) *Vide* last par. of note (*), page 116, with reference to the delivery of certificates, in lieu of permits, on the removal of spirits or tobacco into the stocks of dealers, &c., for home consumption.

snuff in packages or casks not containing two hundred pounds weight at the least⁽¹⁾—or, being separated or divided in any manner within any cask or package—or, any tobacco stalks, tobacco stalk flour, snuff work,—or, cordage, or other article adapted for slinging or sinking small casks—or, any casks or vessels of less content than twenty gallons of the description used for smuggling spirits—in every such case, the spirits, tea, tobacco, tobacco stalks, tobacco stalk flour, and snuff work, together with the casks or packages containing them, and the cordage and other articles above enumerated, and also the ship or boat will be forfeited.⁽²⁾ Sec 212.

SHIPS WITH PROHIBITED GOODS, &c., ON BOARD, FORFEITED.

Vessels found or discovered to have been within any port, river, bay, harbour, or creek of the United Kingdom, or the Channel Islands, having, or having had, on board, or in any manner attached to them, or conveying, or having conveyed any of the goods mentioned in the preceding section in casks or packages of less than the capacity therein specified, will, together with such goods, be forfeited. But, if it shall be made to appear to the Commissioners of Customs, that there was no privity, neglect, nor want of reasonable care on the part of the master, they may waive the forfeiture of the vessel. Sec. 213.

(1) These quantities are given with reference to the general restrictions, but if the goods be legal importations in the smaller sized packages, permitted to be imported from particular places on the necessary proof being given, they will fall within the exceptions, contained in section 214, which, in case of prosecution, may be pleaded as matter of defence.

(2) A vessel is forfeited from the time of an act of smuggling, so as to avoid any alienation after that time, though before the condemnation. *Locker v. Offley*, 1 T. R. 260.

If a foreign vessel, having had on board goods, spirits, &c., which she has unshipped at more than a league from the shore, during the same voyage, appeared within one league, she is liable to forfeiture by the statute 3 & 4 Will. IV. c. 53, s. 4 (*corresponding with the present section*). But she incurs the forfeiture in such case only by coming within the distance during the same voyage, and not by doing so in any subsequent or distinct voyages. *Attorney Gen. v. Schiers*, 2 C. M. & R. 286; 1 Gale, 223; 5 Tyr. 1029.

**EXEMPTIONS FROM THE OPERATION OF THE FOREGOING
REGULATION.**

The provisions of the preceding section are not to apply to ships of one hundred and twenty tons burden or upwards on account of the following goods, according to the quantities thereof severally enumerated :—

Tobacco coming direct from the East Indies or the Turkish dominions, including Egypt, if in packages, each containing not less than one hundred pounds net weight of such tobacco.

Snuff or Negrohead tobacco the produce of, and imported direct from, the United States of America, if in packages, each containing not less than one hundred and fifty pounds net weight of such snuff or tobacco.

Tobacco imported from Malta in packages, each containing not less than eighty pounds net weight.

Tobacco, the produce of Porto Rico, Mexico, South America, St. Domingo, Cuba, the British Possessions in America and the West coast of Africa, if in packages, each containing not less than eighty pounds net weight of such tobacco, and imported direct from those places.

Cigars, if in packages, each containing not less than one hundred pounds net weight.

Cigarillos or cigarettes, if in packages, each containing not less than seventy-five pounds net weight.

Nor are the provisions of the 212 and 213th sections to apply to ships of fifty tons burden or upwards on account of the following articles :—

Tea, or spirits, in glass or stone bottles not exceeding three pints each, such tobacco, snuff, cigars, cigarillos, or cigarettes, tea, and spirits being part of the cargo ;

Spirits, tea or tobacco really intended for the consumption of the seamen or passengers on board during the voyage, and not more than the necessary quantity ;

Nor, to render any ship liable to forfeiture if really bound from one foreign port to another, and pursuing such voyage, wind and weather permitting. Sec. 214.

FURTHER CAUSES OF SHIP'S FORFEITURE.

If any ship come into port with a cargo, and be afterwards found light or in ballast, she will be liable to forfeiture, unless the master can explain the circumstance satisfactorily. Sec. 215.

If any ship wholly or partly British-owned, or having any British subject on board, come within four leagues of the coast between the North Foreland and Beechy Head, or within eight leagues of any other part of the coast, and any part of her lading shall have been thrown overboard—or any of the goods staved or destroyed to prevent seizure,⁽¹⁾ she will be liable to forfeiture. Sec. 216.

If any ship, being wholly or partly British-owned, or having one half of the persons on board British subjects, be found within one hundred leagues of the coast, and do not “bring-to” upon signal from any of the Queen’s ships—or if during chase, any of her lading be thrown overboard, staved, or destroyed, to prevent seizure, she will be liable to forfeiture.⁽²⁾ Sec. 217.

All persons escaping from any ship, British or foreign, during chase, are to be deemed British subjects, unless the contrary be proved. Sec. 217.

SHIPS NOT “BRINGING-TO,” MAY BE FIRED INTO.

Any vessel liable to seizure or examination, not “bringing-to” on being chased by any Queen’s ship, bearing her proper pendant and ensign hoisted, may be fired into; and the captain of such ship or those firing under his orders will not be liable to any proceeding by indictment or otherwise, for so doing. Sec. 218.

OFFICERS OF THE ARMY, NAVY, OR MARINES, OR OF THE CUSTOMS, MAY BOARD AND SEARCH SHIPS.

Any officer of the Army, Navy, or Marines, or of the Customs, producing his warrant, or deputation if required, may board ships within any port in the United Kingdom and search every part

(¹) The master is liable to a penalty of £100 under section 53.

(²) Persons on board concerned in the above offences, are liable, under section 235, to imprisonment and hard labour.

thereof, and remain on board, while such ships shall continue in port. Sec. 219.

**OFFICERS OF CUSTOMS OR EXCISE MAY STOP AND SEARCH
SUSPECTED CARTS, &c.**

If any reasonable suspicion exists, that carts or other vehicles are carrying smuggled goods, any officer of Customs or Excise, may stop and search them, without being liable to any prosecution or action for so doing; and persons, refusing to allow such search, will forfeit £100 for every such offence. Sec. 220.

HOUSES MAY BE SEARCHED UNDER WRITS OF ASSISTANCE.

So also, officers of Customs, having a writ of assistance from the proper Court, may, in the day time, search houses and other places, and, if resisted, break open doors, chests and other packages, and seize and carry to the Queen's Warehouse any uncustomed or prohibited goods, and avail themselves of the aid of constables, police, or other officers; and all such writs of assistance are to be in force during the reign in which they were granted and for six months afterwards. Sec. 221.

Ships, boats, or other modes of conveyance, and horses used in conveying or removing goods liable to forfeiture under the Customs laws will be forfeited.⁽¹⁾ Sec. 222.

AUTHORIZED OFFICERS MAY SEIZE SHIPS, BOATS, AND GOODS.

All ships, boats and goods liable to forfeiture may be seized and persons liable to detention may be detained by officers of the Army, Navy, or Marines, duly employed for the prevention of smuggling, and on full pay, or by officers of Customs or Excise, or persons duly authorised or employed for that purpose; and ships, boats and goods so seized are, as soon as convenient, to be delivered into the charge of the proper officer. The tackle, apparel and furniture of such ship or boat, and the packages in which such goods are found, together with their other contents, are included in the forfeiture. Sec. 223.

⁽¹⁾ Seizures may, under sections 227 and 228, be restored or otherwise disposed of.

**FORFEITED GOODS TO BE BROUGHT TO THE NEAREST
WAREHOUSE.**

Goods stopped on the ground of their liability to forfeiture are to be brought to the Customs' warehouse nearest to the place of stoppage, and delivered to the proper officer of Customs, within forty-eight hours after stoppage and detention. Sec. 224.

GOODS STOPPED BY POLICE OFFICERS ON SUSPICION.

Such goods stopped by any police officer on suspicion of being stolen are to be brought to the police office to which the offender may be taken, to remain there for production at his trial. In such case, the officer is bound to give notice in writing to the Commissioners of Customs of the particulars of the detention ; and, after the trial of the offender, the goods are to be conveyed to the Customs' warehouse to abide legal proceedings. Any police officer neglecting to convey the goods to such warehouse, as required, or to serve such notice, will forfeit the sum of £20. Sec. 225.

**WRITTEN NOTICE OF GROUNDS OF SEIZURE TO BE GIVEN
IN ALL CASES.**

In any case of seizure of any ship, boat, or goods, as forfeited, the officer is bound to give notice in writing to the master or owner, if known, of the grounds of seizure, either by delivery personally, or by transmission through the post office, to his abode, if known ; and such ship, boat, or goods are to be deemed condemned, and may be sold as such, unless such master or owner, or some other person authorised by him, give a written notice within one month from the date of seizure, if in London, to the seizing officer, or to the Secretary or Solicitor of Customs, and if elsewhere, to the seizing officer or the collector or comptroller of Customs or other chief officer at the port, that he claims or intends to claim the ship, boat, or goods so seized. Sec. 226.

**COMMISSIONERS OF TREASURY OR CUSTOMS MAY RESTORE
SEIZURES.**

The Commissioners of the Treasury or of Customs may, by order, direct seizures to be restored, whether condemnation shall

have taken place or not, on such terms as they may approve.
Sec. 227.

DISPOSAL OF SHIPS, BOATS, OR GOODS SEIZED.

Ships, boats, or goods, so seized and condemned, may be disposed of as soon as convenient after condemnation, by the Commissioners of Customs; and all fishing implements liable to forfeiture and seized under the 6th and 7th Victoria,⁽¹⁾ and the convention therein referred to, may be sold, unless claimed within one month after seizure, in the manner prescribed by section 226, with respect to other seizures. Sec. 228.

(¹) The 6 & 7 Vic. c. 79 (passed in pursuance of a Convention between Her Majesty and the King of the French, for the guidance of the subjects of either sovereign, fishing between the coasts of England and France) after reciting, that it had been agreed by the high contracting parties to procure an enactment by the legislature of their respective countries, whereby certain proposed regulations for the conduct of the fisheries between their coasts should be carried into effect, prescribes by section 2 a distance of three miles from low water-mark as the limit, except as to bays, the mouths of which do not exceed ten miles in width, and which are reckoned from a line drawn from headland to headland, and reduces the limits of the pilchard fishery in Devon and Cornwall, prescribed by 18 & 14 Car. II. c. 28, with certain exceptions, to the same distance. By section 3 the appointment of persons to enforce the conditions of the Convention is authorised, and penalties enacted. By section 4 the Board of Trade is empowered to make rules and bye-laws, and to impose penalties not exceeding £5 for any breach, in respect of which no penalty is fixed by the Act, and to direct that "all nets, instruments, or implements of fishing used contrary to such rules and bye-laws, be forfeited, destroyed, or removed, as the case may require." Section 5, directs the publication of rules. Section 6 provides for the suspension of the articles in Ireland, while there is no mixed fishery there under 5 & 6 Vic. c. 106. Section 8 repeals the clauses of the latter Act, by which the Commissioners of Public Works are authorised to divide the coast of Ireland into districts for registering fishing vessels, and substitutes the collectors' districts. Section 9 enables officers, &c., of Her Majesty's cruisers, and the Coast Guard service, to enforce the provisions of the Act, and the Act regulates the course of procedure for recovery of penalties and punishment of offences, &c., &c.

PROVISIONS AFFECTING SMUGGLERS PERSONALLY.

As already observed, sections 209 to 228 affect the property in ships, boats and goods; but, the law, as contained in those sections, would not be adequate to repress the offence without the aid of additional enactments under which the parties criminally implicated would be held responsible. The first of those enactments authorises the search of any person, whether on board, or, if suspected, after landing, supposed to have uncustomed or prohibited goods secreted about his person. If he resist the officer in the discharge of this duty, he is liable to a penalty of £100.⁽¹⁾ So if a passenger, whether on board or after landing, denies, that he has any such goods in his possession, and it be afterwards found, that his denial is untrue, the goods found to be, or to have been, on his person are forfeited, and he is liable to an additional penalty of treble their value. Sec. 229.

CONDITIONS AS TO THE SEARCHING PERSONS.

The party about to be searched may, instead of submitting to search, in the first instance, require the officer to bring him before some magistrate, or before the collector, comptroller, or other chief officer of Customs, who, if he see no reasonable cause for search, may forego the same; but if he see such cause, may direct it to be made. The search of females is invariably to be made by women. Sec. 230.

On the request referred to in the foregoing section, the party is to be brought with all reasonable dispatch before the justice, collector, or other officer. Any officer requiring such personal search without reasonable cause, is liable to a penalty not exceeding £10. Sec. 231.

SPECIAL PERSONAL OFFENCES AND THEIR PENALTIES.

Any person guilty of any of the following offences, is liable to a penalty of £100, or treble the value of the goods referred to, at the election of the Commissioners of Customs.

⁽¹⁾ Violent resistance by assault on officers is punishable under section 251.

Being concerned in importing or bringing into the United Kingdom any prohibited goods, or any goods, the importation of which is restricted, contrary to such prohibition or restriction, and whether the same be unshipped or not;—or unshipping or assisting or being otherwise concerned in the unshipping⁽¹⁾ of any goods, which are prohibited—or, of any goods which are restricted, and imported contrary to such restriction⁽²⁾—or, of any goods liable to duty, the duties whereon have not been paid or secured;⁽³⁾—or knowingly harbouring keeping or concealing any such goods;⁽⁴⁾

(1) The 44th section of the 3 & 4 Wm. IV. c. 53 [*corresponding with section 232 of this Act*,] enacts that “every person” who shall be concerned in the unshipping of goods, the duties for which have not been paid, &c., shall forfeit either treble the value thereof, or be liable to the penalty of £100. The defendant and his partner having been separately convicted of the same offences, held that each was liable to the penalties imposed by the Act. Per Lord Abinger, “I was at first struck with the apparent hardship of involving several partners in several separate penalties for the same identical act, but the words of the statute appear to me to be decisive of the question.” They are that “every person” who shall be concerned in the unshipping of any goods, the duties for which have not been paid, or shall be guilty of any of the other offences, mentioned in the section, shall be liable to the penalties there inflicted. *Regina v. Dean*, 12 Mee. & W. 43. Penalties are imposed as punishments. If three persons be convicted of a petty larceny, for which the punishment is (say three months imprisonment), the law would not be satisfied by committing them for one month each.

(2) Forfeiture of goods. Sec. 44.

(3) *Vide* note (1), p. 112, and note (2), p. 208.

(4) On section 232, the question of fraudulent concealment, within the meaning of the above words, has been the subject of frequent consideration under the corresponding provisions of the former law—generally, the mere finding of smuggled goods in a defendant’s dwelling-house is *prima facie* evidence of his having concealed them. “It is the occurrence of every day to commit on such evidence; and if the rule were otherwise, the laws would be inoperative. It is always competent to the defendant to prove his innocence, if he can; but the mere finding is *prima facie* evidence upon which these convictions proceed.” (*Att.-Gen. v. Siddons*, 1 C. & J. 224. per Alexander, L.C.B.) And the presumption is strengthened, when the goods are found under any circumstances of concealment. With regard to the intention to defraud Her Majesty of the duties, that must in every case be inferred from the circumstances. It is not necessary or proper, that a witness should depose, that the concealing was done fraudulently and with intent to deceive, for that would be to make the witness a judge of the

—or knowingly permitting or suffering, or causing or procuring to be harboured, kept or concealed, any such goods—and the same penalty attaches to persons to whose hands or possession such goods may knowingly come.

Knowingly harbouring, keeping or concealing any goods which shall have been illegally removed without payment of duty from any warehouse or place of security in which they may have been deposited ;⁽¹⁾—or knowingly permitting, or suffering, or causing, or procuring to be harboured, kept, or concealed any such goods—and the same penalty attaches to persons to whose hands or possession such goods may knowingly come.

Assisting or being concerned in the illegal removal of goods from any warehouse or place of security in which they have been deposited.

Being knowingly concerned in conveying, removing, depositing, concealing, or in any manner dealing with any goods liable to duties of Customs, with intent to defraud Her Majesty of such duties ;⁽²⁾—or being knowingly concerned in any fraudulent evasion or attempt at evasion of such duties.⁽³⁾ Sec. 232.

defendant's intentions, which is not his province. His business is truly to relate the fact and the circumstances thereof, and from this the justices or jury are to determine both of the offence and the fraud (Ell. Ex. 81).

Connected with the subject of concealment is that of finding forfeited articles mixed with articles that are not forfeited, in which case, "if that which is not seizable is mixed with what is liable to seizure, so that the one cannot be separated from the other, the whole is forfeited. (*Rea v. Sir Jos. Maubey*, Loft, 179; *Rea v. Villiers*, Id. 199. Poph. 38; *Colievill v. Reeves*, 2 Campb., 576; *Howard*. Ex. 181.)

As to the evidence necessary to support an information for illegal unshipping and relanding, see *Rea v. Dixon*, 11 Price, 204; *Att.-Gen. v. Towns*, 6 Price, 196; and as to a fraudulent shipment with intent to reland, see *Wilson v. Sanders*, 1 Bos. & P., 267.

(¹) Forfeiture of goods. Sec. 209.

(²) Forfeiture of goods. Sec. 89.

(³) As to the forfeiture of the goods, *vide* sec. 93. An information for penalties under the 3 & 4 Will. IV. c. 53 sec. 44 [*corresponding with section 232,*] charged the defendant with being concerned in the unshipping of goods, the duty on which had not been paid: with knowingly harbouring goods imported and illegally unshipped without payment of duties, and with other offences under that section. It appeared at the trial, that a practice prevailed at the Custom House of allowing the

OFFENCES WITH REFERENCE TO GOODS AFTER IMPORTATION.

A similar penalty is imposed on parties guilty of any of the following offences :—

1. Removing any goods imported into the United Kingdom from any ship, quay, wharf, or other place, previous to the examination thereof by the proper officer of Customs, unless under the care or authority of such officer ;⁽¹⁾—or removing or withdrawing from any quay, wharf, or other place, any goods entered to be warehoused, after the landing thereof, so that the taking of a sufficient account by the proper officer, or the due warehousing of the goods be evaded ;⁽²⁾—or assisting or being otherwise concerned in the removal or withdrawal of such goods ;—or knowingly harbouring, keeping, or concealing such goods ;—or permitting or suffering, or causing or procuring to be harboured, kept, or concealed, any such goods ;—and the same penalty attaches to persons to whose hands or possession such goods may knowingly come. Sec. 233.

PERSONAL OFFENCES AS TO TOBACCO, SNUFF, TEA AND SILK.

In addition to the penalty of £100, or treble the value of the goods, at the election of the Commissioners of Customs, the detention of the offenders (to be dealt with as directed by sections 237 to 240, and 281 to 284,) is authorised for any of the following offences :—

Unshipping, or aiding or being concerned in unshipping of any spirits, tobacco, snuff, tobacco stalks, tobacco stalk flour, or snuff work, or of any tea or silk, such tea or silk being of the value

owners of imported goods to take them away without payment of duty at the time, an entry of them having been previously made in a book kept by the officers ; and that the fraud complained of had been effected by a clerk of the defendant removing some of the leaves from the Custom House books, and substituting others containing false entries of the goods imported. There was no direct proof, that this fact was known to the defendant, but he derived benefit from the fraudulent transaction. *Held*, that, under these circumstances, the jury might infer, that the defendant was privy to the fraud. *Regina v. Dean*, 12 Mee. & W. 39.

⁽¹⁾ Forfeiture of goods. Sec. 86.

⁽²⁾ Forfeiture of goods. Sec. 87.

of £10 or upwards,⁽¹⁾ liable to forfeiture under the Customs Laws;—carrying, conveying, or concealing, or being aiding, assisting or concerned in the carrying, conveying, or concealing of any such spirits, tobacco, snuff, tobacco stalks, tobacco stalk flour, or snuff work, or of any such tea or silk Sec. 284.

**PERSONAL OFFENCES AS TO BEING FOUND ON BOARD A SHIP
LIABLE TO FORFEITURE.**

Any person (being a subject of Her Majesty.) being found, or discovered to have been on board any ship or boat, liable to forfeiture, for being found or discovered to have been within any of the distances in the Act mentioned from the United Kingdom or the Channel Islands, such ship or boat having on board or in any manner attached thereto or conveying or having conveyed in any manner such goods or things, as subject such ship or boat to forfeiture;—or who, being such subject, shall be found or discovered to have been within any such distances, on board any ship or boat from which any part of the cargo or lading shall have been thrown overboard, or staved, or destroyed, to prevent seizure;—or, who (not being a subject of Her Majesty) shall be found or discovered to have been on board any ship or boat, liable to forfeiture for any of the causes last aforesaid, within one league of the coast of the United Kingdom or of the Channel Islands, may be detained and taken before a justice, to be dealt with as directed by secs. 240, 281, and 287.

The punishment, annexed by the statute to the commission of any of the foregoing offences, is—

For the first offence, imprisonment in any House of Correction with hard labour for any term not less than six months, nor more than nine.

For the second offence, not less than nine months, nor more than twelve.

For the third or any subsequent offence, twelve months. Sec. 285.

(¹) The limitation of value under the repealed Act was £20.

PERSONS FOUND ON BOARD A SHIP LIABLE TO FORFEITURE.

Persons guilty of the following offences are on conviction liable to a penalty of £100, and to be detained, brought before a magistrate, and dealt with under sections 240, 281 and 284.

Being found or discovered to have been on board any ship or boat liable to forfeiture under this or any other Act relating to the Customs, for being found or discovered to have been within any port, bay, harbour, river or creek of the United Kingdom or of the Channel Islands, having on board or in any manner attached thereto—or having had on board or in any manner attached thereto—or conveying—or having conveyed in any manner, such goods or things as subject such ship or boat to forfeiture.

Or, who may be found or discovered to have been on board any of Her Majesty's ships or vessels,—or on board any ship or vessel in Her Majesty's employment or service,—or on board of any foreign post-office packet, being a national vessel, employed in carrying the mails between any foreign country and the United Kingdom, such last mentioned ships, vessels, or packets being found or discovered to have been within any port, bay, harbour, river, or creek of the United Kingdom or the Channel Islands, having on board or in any manner attached thereto,—or conveying or having conveyed in any manner, any spirits not being in a cask, or other vessel capable of containing liquids of the size or content of twenty gallons at the least,—or any tobacco or snuff, not being in a cask or package containing two hundred pounds weight of tobacco or snuff at least,—or being separated or divided in any manner within any cask or package. Sec. 236.

DETENTION OF ANY OF THE CREW OF A QUEEN'S SHIP.

When it becomes necessary to detain any of the crew⁽¹⁾ of any ship in Her Majesty's service liable to detention, the detaining officer is to give notice to the commanding officer of such ship, who is required to secure the party on board, until the detaining officer shall obtain a magistrate's warrant for bringing such

(1) As to liability to detention *vide* secs. 234 to 236.

person before him or any other magistrate, which warrant is to be granted to the detaining officer on his stating the grounds of detention. Sec. 237.

DETENTION OF ESCAPING OFFENDER.

In case of the non-detention of any offender at the time of committing the offence, or of his escape from custody, he may be detained at any time afterwards, and brought before a justice to be dealt with, as if he had been detained at the time of committing the offence. Sec. 238.

JUSTICES MAY ACT IN CERTAIN SMUGGLING CASES WITHOUT ORDER OF CUSTOMS.

Persons detained and brought before any justice for being found on board ships, &c., in any port, &c., of the United Kingdom, or Channel Islands (such ship conveying tobacco or spirits in packages or casks which would render her liable to forfeiture,⁽¹⁾—or, for unshipping any spirits or tobacco liable to forfeiture.⁽²⁾—or, for carrying, conveying, or concealing such spirits or tobacco,⁽³⁾—or, for aiding or being concerned in the carrying, conveying, or concealing of such spirits or tobacco—and it having appeared to such justice, that the quantity of spirits, in respect of which the party has been detained, does not exceed two gallons, or the quantity of tobacco, ten pounds weight, he may hear the case, and, without any information or direction of the Commissioners of Customs, convict the party, in lieu of any other penalty, in a sum not less than the single duty paid value, nor more than treble the duty paid value of the goods,⁽⁴⁾ and in default of payment, commit him to prison for any period not exceeding one month. Sec. 239.

(1) As to liability of ships to forfeiture, *vide* sec. 213, p. 212.

(2) As to liability of goods to forfeiture, *vide* Sec. 209, p. 207.

(3) As to permit or certificates and removals of tobacco, &c., *vide* last par. of note (2) p. 116; and Secs. 209 and 210, pp. 207 and 211.

(4) As to the mode of estimating the value, *vide* Sec. 258, p. 230.

JUSTICES MAY ORDER THE TEMPORARY DETENTION OF
OFFENDERS.

If any Justice shall see reasonable cause for detaining any person brought before him, either in gaol or in the custody of the police, he may make an order for his detention, for such time as may be requisite for obtaining the order of the Commissioners of Customs or Inland Revenue,⁽¹⁾ or for preparing informations, convictions, and warrants of commitments;⁽²⁾ and at the expiration of such time, the party may be brought before such, or any other Justice, who is to hear the case. Sec. 240.

PARTIES DETAINED MAY BE ADMITTED TO BAIL

Here follows a new provision *in favorem libertatis*, the absence of which constituted an objectionable feature of the former law. No matter what the character, station or condition of the person detained, instead of being admitted to bail, he was liable to be at once committed to the common gaol. To remedy this, the party detained may now be liberated, on entering into a recognizance in the sum of £100, or in the amount of the penalty sought to be recovered, to appear at the place appointed for the hearing of the case. *Ib.*

OFFERING FOR SALE PRETENDED RUN OR PROHIBITED GOODS.

Any person offering for sale goods pretended to be prohibited or smuggled is liable to a penalty of treble the value of the goods, besides forfeiture of the latter, though neither prohibited nor dutiable. Sec. 241.

SMALL CASKS OF SPIRITS FLOATING OR SUNK TO BE TAKEN
UP ONLY BY AUTHORIZED OFFICERS.

None but officers of the Navy, Customs, or Excise are to take up casks of spirits of less than twenty gallons found floating or sunk within one hundred leagues of the United Kingdom. Spirits taken up contrary to this provision together with the ship or boat in which they are found, are forfeited. Sec. 242.

(¹) As to this order, *vide* sec. 301, p. 260.

(²) As to the forms, *vide* sec. 269, p. 238.

REMISSION OR MITIGATION OF FINES OR PENALTIES.

The Commissioners of the Treasury or Customs may remit or mitigate fines or penalties, or release from custody persons committed under the Customs laws, on such terms as they may deem proper. Sec. 243.

SIGNALLING SMUGGLING VESSELS.

The law constitutes it a misdemeanor for any person after sunset and before sunrise, between the 1st of September and the 1st of April, or between the hours of 8 P.M. and 6 A.M. during the remainder of the year, to make or aid in making, any signal in, from, or on board any ship or boat, or from any part of the coast, or within six miles of it, for the purpose of giving notice to persons on board smuggling vessels, whether such persons be near enough to notice such signal or not. The person so offending may be arrested by any person, and brought before a Magistrate, who may commit him for trial; and, on the trial of any indictment⁽¹⁾ or information in such case, it is not necessary to prove that the ship or vessel was actually on the coast. The penalty on conviction is £100, or, at the discretion of the Court, a year's imprisonment with hard labour. Sec. 244.

The onus of disproving the intent laid in such indictment or information is upon the defendant. Sec. 245.

Any person may prevent signals, and go upon any lands for the purpose, without becoming liable to prosecution or action. Sec. 246.

ASSEMBLING TO RUN GOODS, AID SMUGGLERS, OR OBSTRUCT OFFICERS.

Persons assembled to the number of three or more for the purpose of unshipping, carrying, conveying, or concealing any spirits or tobacco, or any tea or silk being of the value of ten pounds or more, liable to forfeiture—and every person, who shall by any means procure or hire, or shall depute or authorise any other

(1) The time stated in the indictment under the 6 Geo. IV. c. 108, s. 52 (*with which this section corresponds*.) must, in arrest of judgment, be taken to be the true time, without a substantive averment (*Rex v. Brown*, M. & M. 163). The Quarter Sessions have cognizance of this offence (*Rex v. Cock*, 4 M. & Sel. 74).

person to procure or hire, any person or persons to assemble for the purpose of being concerned in the landing or unshipping or carrying, conveying, or concealing, any goods, which are prohibited to be imported, or the duties for which have not been paid or secured, or, who shall obstruct any officer or officers of the Army, Navy, or Marines, being duly employed for the prevention of smuggling, or any officer or officers of Customs or Excise, or any person acting in his or their aid or assistance or duly employed for the prevention of smuggling, in the due seizing of any goods liable to forfeiture by this or any other Act relating to the Customs.—or who shall rescue, attempt or endeavour to rescue, or cause to be rescued, any goods, which have been duly seized—or, who shall before, or at, or after, any seizure, stave, break or otherwise destroy any goods to prevent the seizure thereof, or the securing of the same,—is, on conviction of any of the foregoing offences, liable, for the first offence, to be imprisoned with hard labour for not less than six months, nor more than twelve; for the second, for not less than nine months, nor more than twelve; and for the third or any subsequent offence, for twelve months. Sec. 247.

PERSONS ASSEMBLING ARMED TO ASSIST IN SMUGGLING.

So also, if any persons, to the number of three or more, armed⁽¹⁾ with fire-arms or other offensive weapons,⁽²⁾ shall, within the United Kingdom, or within the limits of any port, harbour or creek thereof be assembled in order to be aiding and assisting in the illegal landing, running, or carrying away of any prohibited goods, or any

(¹) On the trial of an indictment under the corresponding section of the repealed Smuggling Act, it was held not to be necessary to prove, that all the parties were armed; if one or more be armed, and the others be present aiding or assisting, it will be sufficient (*Rex v. Smith*, Russ. & Ry. 386).

(²) Not only guns, pistols, daggers and other instruments of war, but also bludgeons, clubs, and such other things, as are not commonly used, except as weapons, are within the meaning of the statute (*Rex v. Cosans*, 1 Leach c.c. 42; *Rex v. Hutchinson*, *ib.*). But not a common whip *Rex. v. Fletcher*, *ib.* 28), nor *bats*, which are long poles used by smugglers to carry tubs. (*Rex v. Noakes* 5 Car. & P. 226). And, where in the heat of an affray, the defendant caught up a hatchet accidentally, this was held not to be within the meaning of the statute (*Rex v. Rose*, 1 Leach c.c. 342).

goods liable to any duties, which have not been paid or secured.—or, in rescuing or taking away any such goods, as aforesaid from any officer of Customs, or other officer authorized to seize the same, or from any person or persons employed by or assisting them, or from the place where the same shall have been lodged by them,—or, in rescuing any person, who shall have been apprehended for any offence made felony by the Customs laws, or in preventing the apprehension of any person guilty of such offence,—or, in case any persons to the number of three or more so armed as aforesaid, shall, within the United Kingdom, or within the limits of any port, harbour, or creek thereof, be aiding or assisting the offenders,—shall be deemed guilty of felony, and be liable on conviction at the discretion of the Court to be transported⁽¹⁾ for life or for not less than fifteen years, or to be imprisoned for not less than three years. Sec. 248.

SHOOTING AT QUEEN'S SHIPS OR OFFICERS.

It is also made a felony, punishable, as under the preceding section, for any person maliciously to shoot at any ship belonging to Her Majesty, or in the service of the Revenue, or at any officer of the Army, Navy, Customs, or Excise, employed in the prevention of smuggling,⁽²⁾ and persons aiding and assisting are liable on conviction to similar punishment. Sec. 249.

(1) Nearly *pari passu* with the progress of this Act through Parliament, an important measure was proceeding, and ultimately found its way into the Statute-book, by which penal servitude has, in certain cases, been substituted for transportation. The Act referred to is the 16 & 17 Vic. c. 99. By this enactment it is provided, that no person shall in future be sentenced to transportation for any term less than fourteen years. Those liable to be transported for a less term are, in every instance, in which, but for the Act, that sentence might have been passed, henceforward to be sentenced to penal servitude for periods graduating according to the proportionate terms for which they might have been transported. For present purposes, it will be sufficient to state, that under the Act referred to, the punishment prescribed by section 248 of the Customs Consolidation Act may be strictly executed, that is, by transporting the offender for the term mentioned, or under section 3 of the 16 & 17 Vic. c. 99, the judge may award penal servitude for a term not less than six nor more than ten years. Applying the same graduating scale, the sentence of transportation for seven years, under section 250 and 251, would be commuted into penal servitude for four years.

(2) Provision is made for wounded officers by section 254.

**PERSONS WITH MORE THAN FOUR OTHERS HAVING SMUGGLED
GOODS, OR ONE OTHER ARMED OR DISGUISED.**

Whoever, in company with more than four others, shall be found with any goods liable to forfeiture under the Customs or Excise Laws.—Or, in company with one other person within five miles of the sea-coast or of any tidal river, and carrying offensive arms or weapons, or disguised in any way—is, in either case, guilty of felony, and may be transported⁽¹⁾ for the term of seven years. Sec. 250.

ASSAULTING OR OBSTRUCTING OFFICERS.

Persons convicted of assaulting, resisting, or obstructing officers of the Army, Navy, Marines, Customs or Excise, duly employed for the prevention of smuggling, and on duty, are liable to seven years transportation, or, at the discretion of the Court, to be imprisoned with hard labour for any term, not exceeding three years. Sec. 251.

**VESSELS EMPLOYED IN THE PREVENTION OF SMUGGLING MAY BE
HAULED ON SHORE.**

Commanders, &c., of ships, engaged in the prevention of smuggling, are not to be subject to actions of trespass or other proceedings, for hauling their vessels on shore, or mooring them thereto, whenever they deem it convenient. Sec. 252.

For similar reasons, officers so engaged are privileged to patrol all parts of the coast, railways, shores and banks of rivers, creeks or inlets, (except gardens or pleasure grounds) without being liable to action or indictment. Sec. 253.

PROVISIONS FOR WOUNDED, AND WIDOWS OF KILLED, OFFICERS.

The Commissioners of Customs and of Inland Revenue, with the sanction of the Treasury, are authorized to make provision for officers of Customs or Inland Revenue, or seamen or others acting in their aid, wounded in the service, or for the widows and families of such as may have been killed in discharge of their duty. Sec. 254.

(1) *Vide* note (1), p. 228.

REWARDS TO OFFICERS.

The Commissioners of Customs may, in the event of any offender being convicted under the Customs laws, award to the officer or other person by whom the offender may have been apprehended, a reward not exceeding £20. Sec. 255.

Where any penalty or composition has been recovered against any person, the Commissioners may award such portion of it to the officer, who was instrumental in recovering it, as they may deem fit. Sec. 256.

The Commissioners also in cases of seizure may award to the officer such sum as they may deem fit, not exceeding, however, the value of the goods seized. The value of spirits and tobacco, is fixed by the Commissioners of the Treasury or of Customs.⁽¹⁾ Sec. 257.

In cases generally, where penalties ascertainable by value are sued for, the value is to be estimated at the current duty paid price in the market of the like sort of goods of the best quality, or the price of such goods in bond with the addition of the duties. To this rule there is an exception in respect of tobacco stalks, tobacco stalk flour, and snuff work, which, being prohibited articles, have no legal market value and are therefore directed to be taken at the duty paid value of unmanufactured tobacco. Sec. 258.

REWARDS TO OFFICERS OF ARMY, NAVY, &c.

The proportions in which rewards are to be distributed to officers of the Army, Navy, Marines or persons acting under the orders of the Admiralty, are governed by Order in Council, or Royal Proclamation. Sec. 259.

REWARDS TO PERSONS AIDING IN SEIZURES.

In the distribution of rewards for seizures, the Commissioners are authorized, where such seizures are attributable to the information, or instrumentality of persons, other than the officer, to appropriate to them such proportion, as they may deem expedient. Sec. 260.

(1) Vide note (1), page 246.

Any person discovering spirits in casks of less than twenty gallons floating upon, or sunk in the sea, shall, on giving information to the officers of Customs, or other person legally empowered to seize such spirits, be entitled to such reward, on account of the seizure, as the Commissioners may deem proper. Sec. 261.

COLLUSIVE MISCONDUCT OF OFFICERS.

The provisions relating to collusive seizures are directed chiefly against officers guilty of any breach of faith to the service, and are of a highly penal character, the punishment being a penalty of £500 and perpetual incapacity to hold office again under the Crown. The officer incurs that liability in the following cases:—

If he make any collusive seizure,—or if he deliver up,—or make any agreement to deliver up,—or not to seize, any vessel or boat, or any goods liable to forfeiture.

If he take any bribe, gratuity, recompence or reward,⁽¹⁾ for the neglect or non-performance of his duty.

If he conspire or connive with any person to import or bring into the United Kingdom,—or the Channel Islands,—or any of the British Possessions abroad,—or be in any way concerned in the importation or bringing into the United Kingdom,—or the said Islands,—or Possessions, of any goods, prohibited to be imported, or liable to duties of Customs, for the purpose of seizing any ship, boat, or goods, and obtaining any reward for such seizure or otherwise. Sec. 262.

COLLUSIVE TAMPERING WITH OFFICERS.

To discourage temptations to officers to betray their duty, persons tampering with them are also subjected to a heavy penalty.

Every person giving, offering, or promising any bribe, recompense or reward to, or making any collusive agreement with, any officer, to induce him, in any way, to neglect his duty, or to do, conceal, or connive at any act, whereby the Customs laws may be evaded, is liable to a penalty of £200. *Ib.*

(¹) Gratuities for ordinary duties are interdicted by section 3.

CHAPTER V.

LEGAL PROCEEDINGS GENERALLY.

In treating of the former portions of the Act, but more particularly in the last chapter, the law with respect to the civil and criminal liabilities of offenders against the Customs' Revenue has been explained. Following the order of the statute, the mode of procedure to be adopted in each particular case comes next to be considered. Before entering upon this, however, the important change effected by the Act in regard to costs deserves notice.

It is enacted, that "in all Crown suits or proceedings for the recovery of any duty or penalty or the enforcement of any forfeiture under this or any Act relating to the Customs, the litigant parties shall be entitled to recover costs against each other, in the same manner, as in cases between subject and subject."⁽¹⁾

Having thus laid down the new law of costs, the Act goes on to provide, that, subject to certain exceptions subsequently provided for, all duties, penalties, and forfeitures incurred under the Customs laws, are to be sued for, prosecuted, and recovered by action,

(¹) By the rule, thus established, it would seem at first sight that the subject generally has been placed on a more advantageous footing; but, upon due consideration, it will be found, that it really improves the Crown's position; for, it appears by the evidence before the Select Committee of the House of Commons, in pursuance of whose recommendation, the reciprocal rule of costs has been adopted, that, during the preceding seven years, the Crown was successful in ninety-nine prosecutions out of every hundred, so that, had the defendants paid the costs, the Crown would have been a gainer to a very considerable amount; and assuming that the same reluctance to embark in uncertain and doubtful prosecutions which has of late years characterized the Customs Department, continues to be exercised, the benefits of the change will be felt but partially.

information,⁽¹⁾ or other appropriate proceeding in the Superior Courts⁽²⁾ of Common Law of the United Kingdom, or in the Royal

(¹) An information in the Exchequer for recovery of penalties and duties is to be treated, in a general measure, like a criminal case. If it be not satisfactorily made out, the defendant is entitled to a verdict. Per Rolfe, Baron, in *Regina v. Candy*, Exchequer, 1843.

(²) In an information on the 3 & 4 Will. IV. c. 58 section 44, (*corresponding with section 232 of the Customs Consolidation Act*), the venue being laid in Middlesex, one count charged the defendant with assisting and being concerned in unshipping goods liable to the duties of Customs, the duties for the same not having been first paid or secured. Another count charged him with harbouring and concealing goods, which had been illegally unshipped, the duties due thereon not being first paid or secured. Other counts charged the defendant with being concerned in the unshipping of goods prohibited to be imported, and which had been imported into the United Kingdom, and with harbouring goods prohibited to be imported, which had been imported, &c. It was proved on the trial that the defendant in England concerted with M. a plan for smuggling tobacco into Ireland; that, in performance of such concerted plan, he took on board his vessel on the high seas from a cutter despatched from Flushing for the purpose, a cargo of tobacco in illegal packages, sailed with it to Neath, in Glamorganshire, there took on board a quantity of culm, in order to conceal the tobacco, and sailed thence to Youghal, in Ireland, where he landed the tobacco; *held*, that the defendant was properly triable in England as having in England assisted and been concerned in an illegal unshipping of prohibited goods within the statute, *vis.*, the transshipment of them from the foreign vessel to his own. *Attorney-Gen. v. Catt*, 3 Mee. & W. 13, 14.

In the beginning of 1832, A. then residing in England, entered into arrangements with B. for procuring a vessel for the purpose of smuggling tobacco into Ireland. The vessel was accordingly hired by them and proceeded on her voyage in June, 1832; and having taken on board a cargo of tobacco in the Flushing Roads arrived, and was unshipped at Cork on the 28th of July, 1833, without payment of the duties. An information was filed against A. on the 19th of July, 1836, founded on the 6 Geo. IV. c. 106, section 45, (*corresponding with section 232 of the Customs Consolidation Act*), for assisting and being otherwise concerned in the unshipping of the tobacco, the duties not having been paid; A. was not proved to have taken any part in the transaction further than above stated; *held*, that he was not triable on this information in England, per Lord Abinger, "it is clear that the part taken by the defendant was not in itself a participation in the act of unshipping: for the goods which he intended should be taken on board might never have been unshipped, or he might have given notice of abandoning the adventure, in which case it could never have been said, that he was concerned in the unshipping. The acts done by him were not the offence itself, but only evidence of it." *Att.-Gen. v. Kenifick*, 2 Mee. & W. 715.

Courts of the Islands of Guernsey, Jersey, Alderney, Sark or Man, in the name of the Attorneys General for England or Ireland, the Lord Advocate of Scotland, or of some officer of Customs or Excise; and for the recovery and enforcement of any penalty or forfeiture, by information in the name of some officer of Customs or Excise, before any Justice or Justices in the United Kingdom, or any Governor, Deputy Governor, or Deemster, or other Magistrate in the Isle of Man or Channel Islands.⁽¹⁾ Sec. 263.

JURISDICTION, WHERE DUTIES OR PENALTIES DO NOT
EXCEED £100.

Adapting itself to the spirit of a deservedly popular feature in modern legislation, and introducing into the transactions of commerce the conveniences for administering justice, which are afforded by the magistrates' Courts, the County Courts in England, the analogous Courts of the Assistant Barrister in Ireland, and the Sheriffs' Courts in Scotland, the hearing and determination of all informations, suits, or other proceedings in respect of seizures or forfeitures, where the amount claimed does not exceed £100, is withdrawn from the Superior Courts, and remitted to the Justices, County Court Judges, Assistant Barristers, and Sheriffs or their substitutes, and their jurisdiction is extended accordingly, with power to enforce or mitigate⁽²⁾ the penalties sought to be recovered. *Ib.*

REVESTING OF JURISDICTION IN PARTICULAR CASES BY THE CROWN.

Questions of extreme legal difficulty may present themselves, where the sum claimed by the Crown may be less than £100, and upon which it may be of the highest importance, to have the opinion of the judges of the Superior Courts, to provide for which, when such cases arise, the Commissioners of Customs are empowered to certify their opinion to the Commissioners of the Treasury, that questions of so grave a character are involved, as to

⁽¹⁾ The powers given to Governors, Deputy-Governors, Deemsters, or other Magistrates in the Channel Islands, are the same as those of Justices of the Peace. *Vide* sec. 277.

⁽²⁾ This power of mitigation does not extend to the cases where parties are detained, as per sec. 281.

render recourse to a Superior Court expedient, whereupon the Treasury may direct that course; and the substance of the Treasury order endorsed on the process of the Court, will be sufficient to restore to the Court jurisdiction to try the case.⁽¹⁾ *Ib.*

REVESTING OF JURISDICTION IN CERTAIN CASES AT THE
ELECTION OF DEFENDANT.

In the same equitable spirit, the Act empowers the defendant, where the Justices' court may be resorted to by the Crown, and the amount claimed do not exceed £100, to claim the benefit of trial by a superior tribunal, in which case, all the defendant has to do, is to send his written request, either to the seizing officer or to the Solicitor of Customs; and where the proceedings have been instituted before any Justice, the latter, on notice to him by the defendant, shall adjourn the case for one week, to afford a proper opportunity for delivering such request⁽²⁾. An endorsement by the Solicitor of Customs on the process to be afterwards issued against defendant, that the latter prefers to have the case tried in the Superior Court, will be sufficient to restore jurisdiction to the latter to try the case⁽³⁾. But, where proceedings have been

(1) The form of endorsement prescribed by the Act is as follows: "By order of the Commissioners of Her Majesty's Treasury this case appearing to them to be a fit case to be tried in Her Majesty's Court of Exchequer." *Vide* note on next section.

(2) A case having arisen at the Liverpool Sessions under the above section, in which after a trial had been commenced and several witnesses examined on behalf of the Crown, the defendant applied to the Justices for an adjournment to afford the latter an opportunity of serving the necessary notice of his election to have the case tried by a Superior Court, upon which the opinion of the Attorney and Solicitor-General was taken as to right of the party to obtain an adjournment at that stage of the proceedings. Their opinion was as follows: "The option given by the statute must be exercised prior to the commencement of the trial before the Justices. If an information has been lodged before the Justices, the defendant may, by giving notice, insist on having the case tried in a Superior Court, but, if he allows the hearing on the information to be commenced, the reasonable and proper construction of the Act is, that the right of option is gone."

Jan. 19, 1854.

(3) The form of endorsement prescribed by the Act is as follows:—"On the requisition of defendant who prefers a trial by one of Her Majesty's Superior Courts of Law to a trial before Justices."

already commenced before any Justice, or the offender is in custody for default of bail, the proceedings are not to be so removed. It may also be observed, that the right here conferred on the defendant, of resorting to a Superior Court for trial, is not extended to cases where the proceedings have been commenced in the County, Civil Bill, or Sheriff's, Court. Sec. 264.

REMOVAL BY CONSENT FROM SUPERIOR COURTS TO MAGISTERIAL JURISDICTION.

In cases, where proceedings may have been actually commenced in a Superior Court, the Commissioners are empowered, on the written request of the defendant, to discontinue those proceedings and resort to Justices of the Peace, for which purpose the order of the Commissioners will be sufficient authority to the Magistrates to hear and determine the case. Sec. 265.

WHEN JUSTICES MAY ISSUE THEIR WARRANT TO HOLD OFFENDER TO BAIL.

Magistrates may issue their warrant and hold the offender to bail, in cases, where, if proceedings were brought in the Court of Exchequer, a *capias* might issue for that purpose ⁽¹⁾. Information on oath, that the offence charged has been committed, is an essential preliminary to the issuing such warrant. The offender on being brought before any Justice, must enter into Recognizance, ⁽²⁾ for his appearance on the day to be appointed for the hearing, in default whereof, he may, in the meantime, be committed to prison, or to the custody of the police. Sec. 266.

JUDGMENT NOT TO BE INVALIDATED WHEN SEVERAL PENALTIES ARE RECOVERED UNDER JOINT INFORMATION.

Persons may be sued jointly by one information or severally by separate ones, though they may have jointly and severally incurred

⁽¹⁾ The proceeding by writ of *capias* is prescribed by section 293.

⁽²⁾ By section 240, Justices are empowered to admit to bail on sufficient security by recognizance being given. *Vide* also Recognizance on *capias*, section 293.

the penalty; and in case of a proceeding against such several persons by joint information for recovery of the penalty or penalties so severally incurred by each, the penalty may be recovered, although one or other of the parties liable may have allowed judgment to go by confession or default, or, although the penalty, adjudged to be paid by one of such persons, differs in amount from that in which any other of them may be convicted, or, although any of such persons may be acquitted; and every judgment in such case shall be valid and irreversible by writ of error or otherwise.⁽¹⁾

(1) Where several persons are charged with an offence, which is in its nature several, they will be heard at the same time if they appear, and they cannot claim to have their cases heard separately. If all do not appear, the proceeding can be *ex parte* with regard to those absent, and the others may be afterwards tried on the same or another information. 4 Mag. 225.

Where proceedings are taken against two or more persons for an offence which is joint and by which one penalty only is incurred, and some only have been apprehended or duly summoned at the time of the hearing, the hearing may either be adjourned, until the others are brought up (if those who are present consent to this course), or if the hearing take place, and a conviction be made, the absent parties cannot be afterwards convicted, (16 J. P. 511; 4 Mag. 225.) The omission of a *particeps criminis* cannot be taken advantage of by those, who are convicted. Stone's Man. 237.

It is sometimes contended, that, where the transaction is one and the same, though involving the commission of various offences, evidence can only be given of one penalty incurred. But the case of the *Att.-General v. Towns* has established a different rule in revenue cases. In that case the first count of the information charged the defendant with having incurred a penalty of £100, under the 17 Geo. III. c. 39 sec. 25, for *being concerned* in unshipping foreign glass without payment of the duty. The third charged him with having incurred another penalty of £100, under the 27th section of the same statute, for being concerned in unshipping British glass after having been shipped for exportation; and it averred the entering and shipping for the purpose of obtaining the drawback. The facts were these:—The master of the brig *Unity*, homeward bound, coming up the Thames from Amsterdam, was proved to have hired and sent off a boat and men, accompanied by one of his own crew, to bring away certain boxes of foreign and British glass lying on the sand below the *Chapman's Head*, on the Essex coast, to be landed at Woolwich, which they find lying as described, and bring as far as Gravesend, where the whole is seized by the Custom House officer. Evidence of the facts was held sufficient for the jury to bring in a verdict of the defendant being *concerned* in unshipping foreign glass without payment of duty, and in unshipping British glass shipped for exportation, subjecting the master of the vessel to the

This provision has been introduced for the purpose of avoiding an inconvenience consequent on the former state of the law, which involved the necessity of separate informations for recovery of penalties in almost all cases, where offenders were jointly and severally liable. Sec 267.

WHEN IMPRISONMENT MAY BE SUBSTITUTED FOR PAYMENT OF PENALTY.

In case of a verdict in any Court of Record, by which the defendant is convicted of any offence for which a pecuniary penalty is inflicted, the presiding Judge may in lieu of such penalty, sentence the offender to not less than six, nor more than twelve, months' imprisonment. Sec. 268.

PROCEEDINGS BEFORE JUSTICES.

It has been found a convenient means of facilitating the administration of justice to disentangle legal procedure from the technicalities and dilatoriness of scholastic pleading. The Common Law Procedure Act, 1852, and the Chancery Reform Acts of the year 1852, are successful examples of this laudable endeavour to do away with prolixities and subtleties, which have been found inimical, rather than auxiliary, to the just determination of a suit. The success, which has attended the adoption of a settled series of forms, annexed by way of schedule, to those important Acts, was sufficient to warrant a similar attempt at simplification of the forms in Customs proceedings and to which the following section has reference.

FORMS OF INFORMATIONS, SUMMONSES AND CONVICTIONS.

All informations exhibited before Justices for offences or forfeitures, under the Customs laws, and all summonses, convictions condemnations, forfeitures and warrants may be in the form or to the effect prescribed by schedule B.⁽²⁾ And the form of in-

penalties for both offences, though the whole was one transaction. *Att.-Gen. v. Towns*, 6 Price 198.

(¹) Similar powers are conferred on Justices by sections 284 and 287.

(²) The effect of this section is to simplify and shorten pleadings by

formation and its various counts as given in that schedule are deemed applicable to, and sufficient with reference to any offences created by or punishable under the several sections of the Act to which they relate and in the prosecution of all such offences and forfeitures⁽¹⁾. Sec. 269.

information at the suit of the Crown in Customs cases. Under the former state of the law, these frequently extended to such a length as to create great inconvenience and perplexity to both Crown and subject, as well as to increase the expense. The evil of prolixity was not a little aggravated by the necessity for setting forth the offence charged or claim made, in a variety of counts, not easily distinguishable from each other; and all necessarily sinning against simplicity and succinctness. "The Common Law Procedure Act, 1851," superseding *Wentworth and Chitty*, as the pleader's guide in ordinary actions, avoids all interference with revenue pleading; that necessary reform being possibly reserved for future legislation. But the author's experience in revenue cases suggested to him that, in the preparation of the draft of the Customs Consolidation Act, a favourable opportunity presented itself for anticipating "the amending hand" of the Common Law Commission, by substituting a short and simple form of information instead of the complicated, technical, and verbose pleadings which the pre-existing law rendered essential; an evil which, unmindful of what that law required, some commentators on some recent Customs' suits have attributed to the legal department of the Customs.

(1) In every information for penalties a day certain is always fixed for the commission of the offence, but it is not necessary to prove on the trial, that the offence was committed on that particular day, it being sufficient, in support of the information, to prove the offence committed before the exhibiting of the information, and within the time limited by law. *Res v. Chandler*, 14 East, 274; *Att.-Gen. v. Weeks*, Bumb., 223; *Res v. Brown*, 1 M. & M., 163; *Res v. Crisp*, 7 East, 389; 2 Hawk. c. 23 sec. 89; How. Ex. 69. In like manner, as regards the alleged place of committing the offence, it is not necessary to prove it to have been committed at the place laid (except where the place forms an ingredient of the offence), provided it be not out of the Magistrate's jurisdiction. *Charnack's case*, 1 Salk., 281; 2 Hawk. c. 25 sec. 84; How. Ex. 38. The same rule applies to quantities and numbers. Certain quantities and numbers are always set forth in the information, but if a larger quantity or a greater number is stated in the information than is proved by the witnesses, the information will not be thereby vitiated; but, if the quantity and number proved are more and greater than stated in the information, the quantity and number stated in the information can only on the hearing of such information be condemned (*Radford v. McIntosh*, 3 T. R., 632; How. Ex. 140)—So, where an information charges an offence to have been committed in various ways, as in the case of an Excise prosecution, thus, "did tread, ram, and

WHERE SEVERAL FORMS ARE GIVEN UNDER THE SAME SECTION,
THAT NEAREST APPLYING TO BE USED.

It has been observed, that some of the penal sections of the Act create a series of offences sometimes distinct in their character and degree. In this case, the count is to be used in which the offence is alleged according to the fact. *Ib.*

JOINDER OF COUNTS IN ONE INFORMATION.

So, where the offence consists of more than one violation of the law, the counts may be multiplied in one information, so as to set out each separate offence distinctly; and, where any offence is committed, for which no form is given in the schedule, a form of information may be adapted to the case, so unprovided for. The information in each of the foregoing cases, is to be deemed valid, that is, if it substantially follow the form prescribed, and is not in any respect materially defective, the obvious policy of the Act being to discountenance technical objections or anything tending to obstruct or prevent a hearing of the information upon the merits. *Ib.*

INFORMATION, &c. VALID IF OFFENCE SET OUT IN THE WORDS
OF THE ACT.

Every such information, conviction, and warrant of commitment or condemnation, is to be deemed valid and sufficient, if the offence or forfeiture be set out, either in the words of the Act, or in the form of information given in the schedule; and, where the word "Customs," is used to describe Commissioners or officers of Customs, the words, "Inland Revenue or Excise," may be substituted, as the case may require. *Ib.*

FORMS OF INFORMATIONS, &c., IN SCHEDULE APPLICABLE IN
ALL COURTS.

The next provision of this section effects an important reform
force together malt," if the offence be proved to have been done by one of those methods, it will be sufficient to support the information. *Ell. Ex. 50.*

in Customs revenue procedure. It is not in proceedings before the Justices alone, that the use of the short forms of Information is to be deemed sufficient. They may be used "in any Court having jurisdiction in such cases," under the Act. In other words, subject to the right to vary and adapt them, so as to set out the offence, they are to be employed in every Court of competent jurisdiction, and upheld by every such Court, as sufficiently alleging the offence. *Ib.*

CONVICTIONS, WARRANTS OF COMMITMENT, &C., NOT TO BE
HELD VOID FOR DEFECT.

No conviction or warrant of commitment or condemnation is to be deemed void by reason of any defect therein ;⁽¹⁾ nor will any party be entitled to his discharge from custody by reason of such defect, if it be alleged in the warrant, that the party was convicted or if it be shown to the Court or Judge, that the conviction proceeded upon valid grounds. *Ib.*

EXECUTION OF WARRANTS BY OFFICERS OF CUSTOMS.

Every such warrant may be executed by any officer of Customs and in any part of the kingdom, without any other endorsement or sanction, than that of the Justice by whom it was issued. And no objection is to be allowed to any information, complaint or summons for any alleged defect in substance or form, or for any variance between such information, complaint or summons, and the evidence adduced on the part of the complainant. *Ib.*

ISSUING THE SUMMONS.

On exhibiting an information or complaint before any Justice for any offence against the Customs laws for which the defendant is not liable to be detained, or by which information any penalty or forfeiture is sought to be recovered, or any punishment of hard labour is sought to be inflicted, provided the information be exhibited within three years after the commission of the

(¹) Section 290 provides for the amendment, by Justices, of informations, convictions, and commitments, either before or after conviction,

offence,⁽¹⁾ the Justice having jurisdiction in the matter, may issue his summons to the offender, stating shortly the subject of information or complaint, and requiring his attendance, at the time and place therein named, to answer such information or complaint, and be otherwise dealt with according to law. Sec. 270.

HOW SUMMONS TO BE SERVED.

The summons is to be served by any officer of Customs or Excise, or other person employed for the purpose, on the party, personally, or by leaving it at his last known place of abode or on board the ship to which he belongs or may have lately belonged⁽²⁾. *Ib.*

HEARING OF CASE ON DEFENDANT APPEARING.

If the party appears in pursuance of such summons, the case may be heard and determined, and on proof of the matter set out in the information or complaint, either by confession of the offender or the evidence of one or more credible witnesses, the Justice shall convict the party of the offence. Sec. 271.

HEARING OF CASE IN DEFENDANT'S ABSENCE.

If the defendant do not appear, on proof of service of the summons, the case may be heard *ex parte* and adjudicated upon, as if he had appeared. Sec. 272.

SUMMONS IN CASE OF FORFEITURE OF GOODS.

On information for forfeiture of goods, the Justice is to issue his summons to the owner or party from whom they were seized, requiring his attendance; (service of such summons to be effected, as prescribed by section 270,) and, on his appearance or default to appear, the matter may be heard. On proof of forfeiture, the goods may be condemned.⁽³⁾ Sec. 273.

⁽¹⁾ Limitation to three years. *Vide* sec. 303, p. 261.

⁽²⁾ The same rule of service applies to subpoens and capias. *Vide* secs. 273 and 294, p. 256.

⁽³⁾ In the event of an action against a seizing officer, where he shall have failed to establish the forfeiture of the goods, the Judge before whom such

SUMMONING WITNESSES.

Justices may summon witnesses, wherever they may be in the United Kingdom; and on failure to attend, (service of such summons being proved, as prescribed by section 270,) or, if appearing, in case of refusal to be sworn or give evidence, or, if a Quaker, to affirm or give evidence, he will, for every such offence, incur a penalty of £50.¹ Sec. 274.

JURISDICTION AS TO OFFENCES ON THE WATER.

When an offence is committed on the water, not within the limits of any county, or, if the officers have doubts as to such limits, it is to be treated, as an offence on the high seas, and for giving jurisdiction, every offence or cause of complaint is to be assumed to have been committed or to have arisen, either at the place of commission or the place on land, where the offender or person complained against may be found or be brought. Sec. 275.

JURISDICTION OF MAGISTRATES OF ADJOINING COUNTIES.

When the attendance of a Justice having jurisdiction in the county, in which the offence has been committed, cannot conveniently be procured, a Justice of any neighbouring or adjoining county, may hear and deal with the case, as if he were a Justice of the county, where the offence was, or was deemed to have been, committed. Sec. 276.

JURISDICTION OF COUNTY JUSTICES IN CITIES, &c.

In the event of the commission of any offence against the Act in any city, borough, liberty, division, franchise or town corporate, not only the Justices having jurisdiction therein, but Justices of

action is tried, may certify that there was probable cause or, in other words, reasonable ground for the seizure, in which case the certificate will operate as a bar to the plaintiff's claim for damages and costs. Sec. 312.

(¹) Similar power to summon witnesses in certain cases is given to the Commissioners of Customs by section 39, the penalty for default of attendance being £20, instead of £50 as formerly.

the county, within which the same may be situate, are to have jurisdiction to hear and determine the case. Sec. 277.

JURISDICTION IN THE ISLE OF MAN AND CHANNEL ISLANDS.

As already shewn by section 263, (p. 232,) informations for the recovery or enforcement of any penalty or forfeiture in the Isle of Man or Channel Islands⁽¹⁾ may be exhibited before any Governor, Deputy-governor, Deemster⁽²⁾ or other Magistrate in those Islands, and, as a necessary incident thereto, all powers vested by the Act in any Justice of the peace are vested in, and may be exercised by the Governors, Deemsters, or other Magistrates of those Islands. *Ib.*

(1) There is but one Court of Judicature in the Island of Jersey, but, because matters are of more or less moment, this Court is distinguished into four classes. The first is called the Court of Inheritance, which is opened at the beginning of every term, and decides on questions arising in respect of real property. The second is the Court of Catel, or Chattels, in which actions upon simple contracts may be tried. The third is called the Extraordinary Court, and decides upon cases of arrears of rent, arrests, and distrains. The fourth is the Saturday Court, and is subsidiary to the third. This last Court takes cognizance of mercantile causes and breaches of the peace. The four Courts thus distinguished constitute a Royal Court, having cognizance of all pleas, real, personal, mixed and criminal, treason and some other *casus nimis ardui* excepted, which are referred to the Queen in Council. As to the laws administered in those Courts *vide* Clark's Colonial Law, 701, and also the Acts of the State of Jersey, passed 1853. The Royal Court of Guernsey is thus described by the Commissioners of Inquiry in 1816, "The Royal Court is understood to have been erected by Royal Charter in the reign of King John for many public purposes. It is the sole local tribunal before which all legal controversies are carried for determination. It consists of the bailiff (named by the Crown) and twelve jurats. There are three terms in each year, each of which continues six weeks. It sits occasionally in vacation. From the decision of this Court an appeal lies to a Court called *Cour d'Appel devant plus de jures*."

(2) The Judges of the Isle of Man are so called from their having decided causes, as they deemed most conscientiously, by what were termed their *Breast Laws*. Lord Coke gives another derivation in 4 Inst., viz., that the word "*Deemster*" is derived from the Saxon word *Dema*, which means a Judge. The Deemsters are Judges both in civil and criminal cases, and their oath on entering office was to do justice between man and man, "as equally as the herring-bone lies between the two sides," in order that their daily food might remind them of their duty. *Clark Col. Law*, 724.

JURISDICTION OF JUSTICES OF GRAVESEND.

For the purposes of the Act, the jurisdiction of the Magistrates of the borough of Gravesend is to be deemed, as extending, on the Thames, from Yantlet Creek to Broadness Point in the Northfleet Hope, including any part of the river, within those limits. *Ib.*

COMMITMENT OF OFFENDERS ON NONPAYMENT OF PENALTY.

When any offender, not liable to detention,⁽¹⁾ fails to pay any penalty, in which he may be convicted, the convicting Justice may, by warrant under his hand and seal, commit such party to prison, until such penalty be paid. Sec. 278.

Such warrants may be executed in any part of the kingdom by officers of Customs, and, when hard labour is imposed, the Justice is to commit the offender to some house of correction accordingly.⁽²⁾ Sec. 279.

JUSTICES MAY MITIGATE PENALTY FOR FIRST OFFENCE.

Justices may mitigate any penalty incurred for a first offence (except in detention cases, sec. 281,) to one-fourth the amount in which the offender may be convicted. Sec. 280.

COMMITMENT ON NON-PAYMENT OF PENALTIES.

Any person liable to detention for any offence against the Customs' laws, and who, having been detained and convicted in any penalty, shall not immediately pay the same without mitigation, may be committed to prison, there to remain, until payment be made; or if it be an offence for which hard labour is inflicted, he may be committed to some house of correction, there to be kept to hard labour for the period prescribed by law. Sec. 281.

PENALTIES AND FORFEITURES PAYABLE TO COMMISSIONERS OF CUSTOMS OR EXCISE.

Penalties and forfeitures recovered under the Customs laws are to be paid to the Commissioners of Customs and, under the Excise

(1) *Vide* secs. 229, 232, 233, 241, 247 and 347.

(2) Hard labour is imposed by secs. 235, 247, 251 and 284.

laws, to the Commissioners of Inland Revenue, or to such persons as may be authorized by them, and are to be applied according to law (1). Sec. 282.

(1) By section 256, the Commissioners may award such portion of any penalties or compositions as they see fit to officers or other persons through whose instrumentality they were recovered; and, by section 257, may award to seizing officers any amount not exceeding the value of the seizure; and, by section 260, the distribution of rewards and penalties to officers or persons giving information is in the discretion of the Commissioners. As to spirits and tobacco the values are fixed by the Lords of the Treasury or the Board of Customs. The present scale is as follows:—

	£	s.	d.
Sound leaf and manufactured tobacco (except cigars, which may be sold), and sound tobacco stalks and snuff	per lb.	0	3 0
Damaged tobacco and snuff, not being worth the duty	per lb.	0	0 4
Cigars destroyed in consequence of not realising the duty (though not damaged)	per lb.	0	3 0
Brandy and Geneva for Hydrometer, proof	gallon	0	15 0
Rum seized in England	"	0	8 2
Ditto „ Scotland	"	0	5 0
Ditto „ Ireland	"	0	3 8

The following governing rule is adopted as a general criterion for regulating the rewards for seizures subject to increase or diminution, according to the merits of the officer.

Spirits, snuff and tobacco (cigars excepted)—

If the goods only be seized and condemned.	½
If the vessel or means of conveyance be seized and condemned, no person being detained	½
If, in addition to the goods and means of conveyance, one person (not being the only party concerned) be detained and convicted	½
If two or more of such parties (not being the whole) be detained and convicted	½
If all parties, above the age of sixteen years, concerned in the transaction giving rise to the seizure be detained and convicted	¾

Goods generally, including cigars—

If the goods only be seized	¼ of the gross proceeds.
If the means of conveyance be seized and condemned, or any party be captured and convicted	½ „
Cattle and carriages	½ „

Vessels and boats—

If sold	½ „
If taken into the Public Service, or broken up	¼ of the appraised value

B. O. Dec. 31, 1853.

PUNISHMENT OF OFFENDERS.

If an offender be imprisoned for non-payment of a penalty not amounting to £100, the gaoler is to discharge such offender at the end of six months from the date of his imprisonment. Sec. 283.

Where the penalty inflicted on any offender shall amount to, or exceed £100, it may be commuted into imprisonment, (if for a first offence,) for not less than six, nor more than nine months, and (if for a second,) at the discretion of the convicting Justice, for not less than six nor more than twelve months, with the addition of hard labour⁽¹⁾. Sec. 284.

In case there be no house of correction within the jurisdiction of the convicting Justice, he may commit the offender to any goal within such jurisdiction, in which the sentence of hard labour is, or can be executed, or to the house of correction, nearest to the place of conviction, for the time prescribed, whether it be for a first or second offence, as the case may be; and the Governor of such gaol or house of correction, is bound to receive the offender in obedience to such warrant and execute the sentence. Sec. 285.

In the case of females and of males labouring under physical infirmity the sentence of hard labour may be commuted into imprisonment, for the period during which the party would, but for this provision, be liable to be kept to hard labour; and in such cases the ground of mitigation is to be set forth in the warrant of commitment.⁽²⁾ Sec. 286.

By section 259, the rewards payable to officers, &c., in the army, navy or marines, or acting under the directions of the Admiralty, are distributable under Royal Proclamation or Order in Council.

(1) And as to hard labour see also sec. 287. The like power to commit to hard labour is also, by sec. 268, conferred on the Judges of the Superior Courts.

(2) In order to reduce the expense attendant upon the proof of criminal proceedings, it is provided by 14 & 15 Vict. c. 99, sec. 13 that, "whenever in any proceeding whatever it may be necessary to prove the trial, conviction, or acquittal of any person charged with any indictable offence, it shall not be necessary to produce the record of the conviction or acquittal of such person or a copy thereof, but it shall be sufficient, that it be certified, or purport to be certified, under the hand of the Clerk of the Court or

If, during the imprisonment, with hard labour, of any offender, it shall be made to appear, either to the convicting, or any other, Justice, that such offender had been formerly convicted of a similar offence, such Justice is to commit the offender further, for not less than nine, nor more than twelve, months from the date of the original commitment, which, for that purpose, may be amended without any special reference to its original contents ;⁽¹⁾ and the gaoler, who has the custody of the offender, is required, upon a written order of the Justice, to produce the prisoner before him. Sec. 287.

Any married woman not paying any penalty, in which she is convicted, is liable to imprisonment. Sec. 288.

MAINTENANCE OF IMPRISONED OFFENDERS.

Where any person is imprisoned, with hard labour, in any county, city, borough, liberty, division, franchise, or town corporate, the expense entailed on those places for the maintenance of such prisoner is to be paid by order of the Commissioners of the Treasury out of the Customs duties, and at such rate, as they may approve. Sec. 289.

So, in the case of a person imprisoned under Exchequer, or other process, the Commissioners of Customs may allow any sum, not exceeding seven pence halfpenny per day, for the subsistence of such person, to be paid out of the duties of Customs. *Ib.*

REMOVAL OF PROCEEDINGS BY CERTIORARI AND HABEAS CORPUS.

Before any offender shall be entitled to remove any proceed-

other officer having the custody of the records of the Court, where such conviction or acquittal took place, or by the deputy of such clerk or other officer, that the paper produced is a copy of the record of the indictment, trial, conviction and judgment, or acquittal, as the case may be, omitting the formal parts thereof."

(¹) By section 290, a general power is conferred on Justices to amend informations, &c., either before or after conviction.

ings by Certiorari⁽¹⁾ or have his body brought up under a Writ of

(1) By the 5 & 6 Wm. IV. c. 38 sec. 2, the defendant's recognisance on removing indictments by certiorari is to be in such sum and with such sureties, as the Court or Judge shall endorse on the writ, and the conditions are to be the same as prescribed by 5 & 6 Wm. & M. c. 11 sec. 2, and the 8 & 9 Wm. III. c. 38 sec. 2. Where there are several defendants, a separate recognisance is required for each defendant, whose name is marked on the certiorari, as a party at whose instance it is sued out (Corner's Crown Practice, page 57).

The great distinction, in principle, between the use of the certiorari for removal of orders and summary convictions of inferior tribunals, and for removal of indictments is, that the certiorari will not, in general, lie to remove an indictment for a defect apparent on the face of it, especially after judgment, that being properly the subject of a writ of error, but as to orders and summary proceedings, a writ of error will not lie (*Res v. Leighton Fort*, 179; *Res v. Lomas Comb.*, 297); and the writ of certiorari is therefore resorted to, as the only means for procuring a revision by a Superior Court.

A statute taking away the certiorari, in words, will not prevent the removal of a proceeding by certiorari, if it appear that the Justices have acted without jurisdiction, or exceeded their authority under the statute, not being then a proceeding under or justified by that statute. Per Ryder, C. J., *Res v. Berkley and another*. 1 Lord Kenyon, Rep. 99.

The rule for a certiorari in misdemeanors is absolute, in the first instance, and *nisi* in cases of felony (*E. v. Spencer*, 8 Dowl., 127; *E. v. Worley*, 1 Nev. & P., 28 n.); though sometimes in cases of misdemeanors the rule is *nisi* merely (Arch. Cr. Fr., 163; *E. v. Bird*, 2 Dowl. & L. 989.)

The practice of removing indictments by certiorari has been most materially altered and restrained by an Act of the last session, the 16 & 17 Vic. c. 30, sec. 4. After reciting that, "by reason of the establishment of a Court of Criminal Appeal, the removal of indictments by writs of certiorari is seldom necessary for the decision of questions of law, but is, nevertheless, sometimes resorted to for purposes of expense and delay." The 4th section enacts, "that no indictment except indictments against bodies corporate not authorised to appear by attorney in the Court in which the indictment is preferred, shall be removed into the Court of Queen's Bench, or into the Central Criminal Court, by writ of certiorari, either at the instance of the prosecutor or of the defendant (other than the Attorney-General acting on behalf of the Crown), unless it be made to appear to the Court out of which the writ is to issue by the party applying for the same, that a fair and impartial trial of the case cannot be had in the Court below, or that some question of law of more than usual difficulty and importance is likely to arise upon the trial, or that a view of the premises in respect whereof any indictment is preferred or a special jury may be required for a satisfactory trial of the same. The 5th section goes further, and provides, that no certiorari to remove an indictment shall issue unless

Habeas Corpus⁽¹⁾ he or his agent must make an affidavit, stating

the recognisance shall contain a provision binding the defendant to pay the prosecutor his costs incurred subsequent to such removal. In default of such recognisance as to costs, the trial to proceed in the Court below.

This provision as to costs applies solely to the costs of proceedings subsequent to the removal. The Court has no power to award costs in criminal proceedings in a Court below, although those costs might have been incurred by the defendant improperly suing out a certiorari, which is afterwards quashed (*Res v. Higgins* 5 Ad. & El., 554; 1 Nev. & P., 50; *Res v. Passman*, 1 Ad. & El., 603; *Jones v. Davies*, 1 Barn. & C., 143; *Res v. Hassell*, 5 Dowl., 531).

(1) The course formerly was to bring up the party into Court, but of late, where the Court think, upon hearing affidavits, that the party imprisoned will be discharged or bailed, and especially if he be unable to bear the expense of being brought before the Court or Judge, the Court of King's Bench will grant a rule to show cause, why he should not be bailed by a magistrate in the country; with a certiorari to return the depositions before them—*Res v. Jones*, 1 B. & Ald., 209; but where the validity of the commitment is to be discussed, the party must appear in Court, and the Court will never dispense with his presence, *ex parte Martins*, 9 Dowl., 194. On motion to discharge the prisoner the counsel for the prisoner should be first heard, then the counsel for the Crown, and then the counsel for the prisoner in reply. *Res v. Baines*, 11 A. & E., 213 n.; *Carus Wilson's case*, 7 Q. B., 984, new series.

By 16 & 17 Vict. c. 80, where a party is committed to prison under any criminal charge or sentence, and it may be necessary to have him examined as a witness in any cause, an application on affidavit may be made to one of the Secretaries of State or to any Judge of the superior Courts certifying the fact; and thereupon an order will be obtained, authorising his production before the Court, in which such cause is to be heard. And the prisoner so produced will, in all respects, be dealt with in the same manner as if brought up under a writ of *habeas corpus*.

The writ of *habeas corpus ad subjiciendum* runs to Jersey. A Baron of the Exchequer may in vacation time, under statute 1 & 2 Vic. c. 45 sec. 1, in exercise of the Common Law power, possessed before that statute by the Court of Q. B., issue such writ under the seal of the Court of Q. B. returnable in that Court in term time: and he may do so on affidavits entitled in the Exchequer, inasmuch as the application may be made to him as a Baron of the Exchequer, upon which application he may act in his discretion by making the writ returnable in the Q. B. *Carus Wilson's case*, 7 Ad. & Ell, 984, N. S.

In connection with the controlling power of the Court of Queen's Bench may be stated a decision of the Court, that it will not grant a mandamus to compel the Commissioners of Customs to deliver up goods placed rightfully in their custody to secure the duty, on a suggestion that the full amount of the duty has been since tendered or paid.—*Per Littledale, J.*,

his objections to the proceedings or conviction and on the return of the writ no objection, which is not set forth accordingly, is to be entertained by the court, and every information, conviction, or warrant of commitment may be amended by any Justice, before or after conviction. Sec. 290.

Another condition of the offender's removing the proceedings by Certiorari, is, that he shall give notice thereof to the Solicitor of Customs, and such notice must be proved by affidavit, before the Court can take cognizance of the return of the Certiorari. The notice must be served four clear days before the return of the writ, and four days must intervene between the date of the issue of the writ, and its return. All writs not issued in accordance with these directions, will be void. Sec. 291.

FEEs TO JUSTICES CLERKS.

Fees payable to Justices' clerks are regulated by a table, for which, see App. p. clxxxi. Sec. 292.

SUPERIOR COURTS.

EQUITY REVENUE JURISDICTION OF THE COURT OF EXCHEQUER.

In introducing the provisions of the Act, which relate to, and govern, the proceedings for recovery of penalties, as connected with the question of the jurisdiction of the superior tribunals in revenue cases, it may not be inappropriate to mention the important case of the *Attorney-General v. Halling and others*,⁽¹⁾ in which the question was raised, whether the equitable jurisdiction of the Court of Exchequer, in revenue cases, was taken away by the 5 Vict. cap. 5, s. 1. In that case an information in the nature of a bill was filed by the Attorney-General on the Equity side of the Court. It stated that the provisions of the then existing Customs Regulation Act, 3 & 4 Will. 4, cap. 52, required that every importer of any goods should, within fourteen

"a mandamus to them in this case, would be like a mandamus to the Crown, which we cannot grant."—*Res v. the Commissioners of Customs* 5 Ad. & El., p. 381.

(1) 15 Mee. & W. 687.

days after the arrival of the importing ship, make perfect entry inwards of such goods, or entry by bill of sight. It charged the defendants and one of the officers of Customs, in collusion with them, with having made false and collusive entries, and with being indebted to the Crown in the amount of the difference between the duties at which the goods were entered, and the duties properly chargeable; and after setting forth several other transactions of a fraudulent nature, and that applications had been made to them for payment of the proper duties, which they refused, on the ground, that the goods did not belong to them, and were not imported on their behalf, it prayed a discovery, and that an account might be taken of the said duties, &c., and that a writ of subpoena might issue commanding the defendants to appear and answer and perform the decree of the Court. To this information the defendants demurred, and for cause of demurrer said, that the Court of Exchequer, wherein the said information was filed, had not any jurisdiction in, or over all or any of the matters and things in the said information set forth or referred to and with respect to which discovery and relief was sought from and against the defendants, and that no case was made to entitle the Attorney-General to such discovery or relief. The Attorney-General joined in demurrer. The case was argued at great length in Trinity Term, 1845, by *James Parker* and *Bagshawe* for the defendants, in support of the demurrer and by *Jervis Attorney-General*, *Wray*, and *Wilde*, for the Crown, the question discussed being, how far by the Statute 5 Vict. cap. 5, s. 1, the equity jurisdiction of the Court of Exchequer in matters of revenue was taken away. On the part of the defendant the judgment of Lord Langdale, M.R., in the case of the *Attorney-General v. The Corporation of London*, was relied on. The decision of the Court was pronounced by Pollock, C.B. in a most elaborate and luminous judgment. He reviewed the original jurisdiction of the Court, which he described to be exclusively a Court of Revenue, and availing itself of the forms of the Courts of Common Law and Equity, as circumstances might require. The extension of the jurisdiction by the suggestion, that ordinary suitors were debtors to the Crown and the introduction of the Writ of *Quo Minus*, which, in common

cases, a defendant was not allowed to traverse, created a general Common law jurisdiction and by a similar fiction, bills in Equity were filed so as to make the Court a Court of equity, between subject and subject, the revenue side remaining as before and involving both pleas and equity. After tracing the subsequent history of the Court, the establishment of its Common Law jurisdiction by statute, the regulation of its equitable jurisdiction by the 57 Geo. 3, c. 18, by which the Lord Chief Baron, or, in his absence, one of the puisne barons was empowered to sit alone in equity cases, the learned Chief Baron said, that at the time, when the 5 Vict. c. 5, was passed the state of the Court was exactly this, that there was in the Exchequer a Court of revenue, held before the Treasurer, the Chancellor of the Exchequer and the Barons, with equitable forms of procedure for the collection of the revenue, and a Court of revenue exercising a procedure proper to the other Courts of common law, and incidental to the general revenue Court, Courts of equity and Common Law, for its own officers and real Crown debtors.⁽¹⁾ The Lord Chief Baron, adverting to what had been done by the 5 & 6 Vict. c. 5, said, "We find by the words in the commencement, that all jurisdiction as a Court of Equity, and all jurisdiction conferred on the Exchequer by statute, is taken away. This, if taken literally, would have abolished the writ of summons, given to the Exchequer by statute, and would have reduced this Court to its ancient jurisdiction, as a mere Court of Revenue. But this is immediately restrained by an exception. It is there we are to look to find the reserved jurisdiction of the Exchequer. The first exception is of all powers possessed by or incident to it as a Court of Law, an exception in fact, out of the last branch-powers conferred by statute on the Court of Exchequer. Therefore, it has all the powers legal and equitable, which by statute or

(1) In an information by the Attorney-General for penalties for a breach of the Revenue Laws, the Court of the Exchequer has no jurisdiction on motion by the defendant, either at common law or by statute, to direct a commission to issue for the examination of witnesses abroad: nor will it stay the proceedings until the Attorney-General consents to the issuing of such a commission. *Att-Gen. v. Bovet*, 15 Mee. & W. 60.

Common law, belong to the other superior Courts of common law. The second exception is of all powers possessed by it as a Court of Revenue. Now this must refer to its peculiar legal and equitable powers; for the previous reservation had already included all the powers, both legal and equitable, belonging to it by statute, as a mere Court of Common Law. If the second exception, however, had stopped there, it would have been almost as large as that out of which it was made; for the jurisdiction of the Court of Exchequer, originally exercised after the forms of Common law, and all its equity jurisdiction, arose either rightfully or by usurpation, out of its jurisdiction as a Court of Revenue. Its existing Common Law jurisdiction between subject and subject did not, and had, therefore, previously been saved. Consequently, the words on which the whole question turns, were added, "not heretofore exercised or exercisable by the same Court as a Court of Equity." What therefore do these words mean? Now, when we find that the Court of Exchequer had used its forms of equitable procedure from time immemorial, not merely for the collection of the Revenue, its proper duty, but also as a Court of Equity for its officers and Crown debtors in their ordinary affairs and further, by a suggestion not allowed to be traversed, for all the subjects of the realm, we think the only correct meaning of the whole reservation is, that the legislature take from the Court of Revenue this incidental jurisdiction, which it exercised as a mere Court of Equity, and confine its jurisdiction in future to the mere collection of the Revenue of the Crown, but with all the powers, which from time immemorial it has exercised for that particular object."

* * * * *

"Upon considering, therefore, all the circumstances, we have arrived at the conclusion, that the construction of the 5 Vic. c. 5, s. 1, which is the literal one, and which avoids all these inconveniences is, also the true one, and that the Court has, notwithstanding that act, retained all its actual and incidental jurisdiction, equitable as well as legal, which it has as a Court of Common Law, and has retained also all its proper jurisdiction as a Court of Revenue, for the collection of the Revenues of the Crown, whether the jurisdiction be exercised after the forms of Common Law or

Equity ; but that it has lost all jurisdiction, as a Court of Equity, between its officers and crown debtors, and the other subjects of the realm, which was before incident to it as a Court of Revenue, and was exercised by it as a mere Court of equity ; and further that it has lost all its usurped jurisdiction as a Court of equity, between subject and subject, a jurisdiction which, though not really incident to it, was nevertheless at the time, when the Act passed exercised *de facto* by it as a mere Court of Equity in the Court of Revenue. The result is, that we have not arrived at the same conclusion, at which Lord Langdale arrived in the case of the *Attorney-General v. The Corporation of London*. It is due to that learned judge to say, that so far as appears from the report of the case and his judgment, these matters were never fully brought before his notice. We have, however, from respect to his authority, considered very deliberately the whole case, which very probably may not rest here, but will be carried to the highest tribunal for final determination. We cannot but think, that, if even it should turn out, that our construction is erroneous, this Court will not be left by the legislature so powerful for the charge and so impotent for the relief of the subject, as Lord Langdale's view of the statute would leave us. We think that this demurrer must be overruled and that there must be judgment for the Crown."

As to the general jurisdiction of the Exchequer in Revenue cases, it seems that, that Court will order the removal of an action into the office of Pleas, where it appears that the revenue of the Crown was concerned in the event of it (*Lamb v. Gunman*, Parker's R. 143, and *Hammond's case*, there referred to). See also note (1), p. 272.

PROCEEDINGS IN SUPERIOR COURTS FOR RECOVERY OF PENALTIES.

In any proceeding for recovery of penalties in the superior courts,(1) the process to be issued is to be either a subpoena or

(1) As to costs and jurisdiction in such suits, and the option in certain cases of both parties to resort to the Superior Courts, *vide* sec. 263, 264 and 265, pp. 232 to 245 ; and as to costs in case of removal by certiorari from inferior Courts in certain cases. *Vide* note (1), pp. 249—50.

capias, as the Commissioners of Customs may elect. In either process the sum claimed by the Crown must be specified and in case of a capias the defendant is to be bound with two sureties to the party, to whom the capias shall have been directed, to appear in Court, on the day of its return, to answer any information.⁽¹⁾ He must also, at the time of appearing, be bound to Her Majesty, with two, or by leave of the Court, more sureties, to satisfy the penalties sued for, or such other sum, not exceeding such penalties, as the Commissioners of Customs,⁽²⁾ or the Judge on whose fiat the capias has been issued, may approve, in case of being convicted or yield his body to prison.

In default of giving such sureties the defendant is to be imprisoned. Sec. 293.

SERVICE OF SUBPŒNA.

Where the proceedings are commenced by writ of subpœna, in lieu of capias, the service will be good, if a copy be served either on the defendant personally, or by leaving it at his last known place of abode, or on board any ship, to which he may belong or have lately belonged. Sec. 294.

JUDGMENT IN DEFAULT OF A PLEA.

In the event of the defendant being imprisoned, in default of the required sureties, he is to be served with a copy of the information, either personally or by delivery to the goaler; and if he do not plead thereto, within twenty days from the date of such service, judgment will go by default; and, whether the judgment be obtained by default or verdict, if the defendant do not pay the sum

(1) A defendant arrested under a capias, under the statute 3 & 4 Will. IV. c. 53 sec. 95 (and on the same principle under the corresponding sections of the Customs Consolidation Act), for an offence against the Customs Act, is not entitled to be discharged out of custody on the ground that no information was filed before the issuing of the capias. *Attorney-Gen. v. Reilly*, 12 Mee. & W., 217.

(2) In this case the amount of revenue involved is generally stated in the affidavits, and, as a rule, the Judge would naturally determine the amount of bail accordingly, though not unfrequently, on application for a fiat, the Judges have, on the suggestion of the Solicitor of Customs, fixed less amounts, though, in strictness, no legal authority for such suggestion existed.

recovered, execution⁽¹⁾ may thereupon issue, not only against his body, but against his real and personal estate, whether in his own possession or held by others, in trust for him, for the amount recovered and also the poundage, fees, and expenses of the execution. Sec. 295.

In case it shall be made to appear to the Court, that the offender has been previously convicted, the presiding judge may, under sec. 268, p. 238, instead of adjudging him to pay the penalty, sentence him to imprisonment in any house of correction for not less than six, nor more than twelve, months.

(¹) With respect to executions at the suit of the Crown, and to extents, it is to be observed, that, as against the Crown (the King not being named in the statute of frauds), an extent binds the goods from the *teste* of that writ; and, if the extent be tested before or on the day of the delivery to the sheriff of a writ of *fi. facias*, provided it be delivered before the goods are actually sold under the *fi. facias*. If the goods are sold under the *fi. fa.* it is otherwise, for by the sale the property is altered (*Swain v. Morland*, 1 Brod. & Bing., 370; 3 Moore, 740). The Court of Exchequer decided in the case of the *King v. Wells* and *Alnutt*, 16 East, 278 n., contrary to the decision of the Queen's Bench in that of *Borke v. Dayrell*, 4 T. R., 402, and of the Common Pleas in the case of *Uppom v. Sumner*, 3 Blac., Rep., 1251, that if a *fi. facias* be delivered to the Sheriff, and after a seizure of goods but before sale, an extent be delivered to the Sheriff, tested after the delivery of the *fi. facias*, the extent shall be preferred. (*Giles v. Grover*, 1 Clark and Fin., p. 72). And in the Queen's Bench, the process sued out by the Crown against a defendant to recover penalties, upon which judgment for the Crown is afterwards obtained, entitles the Queen's execution to priority, within the statute 33 Hen. VIII. c. 39, sec. 74, before the execution of a subject, issued on a judgment recovered against the same defendant prior to the Queen's judgment, the Queen's writ, having been delivered to the Sheriff before the actual sale of the defendant's goods under the plaintiff's execution (*Butler v. Butler*, 1 East, 338).

The Crown is not bound by the bankrupt laws, and the appointment of assignees, has no relation to the Act of Bankruptcy so as to defeat any process awarded by the Crown previously to such appointment (Arch. B. Law, by Flather, 173). And the Crown process will be preferred, where the extent is tested on the same day as the appointment of assignees (*Parker's Rep.*, 126; 4 Ver., 752).

Where a person is indebted by simple contract to the Crown at his death, and that debt is found upon a commission, a writ of *diem clausit extremum* may issue against his estate, though he was not debtor to the King by record at his death (*Parker's Rep.*, 95).

EXECUTION MAY GO TO ANY SHERIFF.

The practice, as settled by the Common Law Procedure Act, is here adopted, authorizing the execution to be directed, in the first instance, to the sheriff of any county or other shrievalty at the request of the prosecutor, without reference to the county in which the *venue* is laid, or any suggestion of the issuing of a prior execution into such county. Sec. 296.

PAUPER DEFENDANTS.

Where the defendant is a pauper, he may, on verification of the fact by affidavit, to the satisfaction of the Court, have counsel and attorney assigned to defend him, who are required to act without fee. Sec. 297.

SPECIAL WARRANT TO ARREST.

On the request of the Solicitor, Assistant Solicitor of Customs, or other person acting on their behalf, the sheriff or other person accustomed to execute process, is required to grant a special warrant to the person whom such Solicitor, &c., may nominate ⁽¹⁾ by endorsement on the writ for the apprehension of any defendant

(1) In ordinary cases the appointment of a special bailiff may be proved by a written communication from the plaintiff to the Sheriff requesting the latter to grant a warrant on the writ, directed to the person named in such communication. Under the above section, no opportunity is left for debating the question of what may, or may not be, sufficient evidence of the appointment, the provision requiring the endorsement of the request of the solicitor, &c., on the process itself, being equally distinct and mandatory. Where a special bailiff has been appointed at the instance of the plaintiff, the Sheriff is not in general liable to be ruled by the plaintiff to return the writ (*De Moranda v. Dunkin*, 4 T. R., 119; *Hamilton v. Dalziel*, 2 Blac. Rep., 952). But, under special circumstances (of which notice should be given him, and an indemnity offered) he may be so ruled (*Harding v. Holder*, 9 Dowl., 659; 2 Man. & Gr., 914). The appointment of a special bailiff frees the Sheriff from liability to any action at plaintiff's suit for the bailiff's irregularity in the execution of the process (*Pallister v. Pallister*, 1 Chit. R., 614; *Porter v. Viner*, H., 613 a; *Forde v. Leche*, 6 Ad. & El. 699). And no liability in such case attaches to the Sheriff until the duty of the special bailiff is exhausted. But, the Sheriff would be liable after the duty of the special bailiff is performed, *e.g.*, the arrest made and the prisoner delivered into the actual custody of the Sheriff (*Taylor v. Richardson*,

against whom any capias shall have issued, and in case of neglect or refusal is liable to, on pain of incurring for default, the penalties usually incurred, in cases of default, by such sheriff or other person. Sec. 298.

Where any defendant arrested under such warrant escapes, the sheriff is to be indemnified; and where any party is so arrested, the gaoler of the proper prison is to receive and give a receipt for his body ⁽¹⁾. Sec. 299.

8 T. R., 505). These are questions between the person appointing the special bailiff and the Sheriff. To all other persons the Sheriff (as well as the plaintiff) must answer for the acts of the officer, who holds his warrant, whether under a special or common appointment. A special bailiff is subject to the same liabilities for extortion as an ordinary bailiff (*Plevin v. Prince*, 10 Ad. & El.): and as to liability of bailiffs, see *Watson's Office of Sheriff*, 44, 45.

It seems that, inasmuch as the office of bailiff is one of responsibility and trust, it cannot properly be entrusted to an infant (*Cuckson v. Winter*, 2 Man. & Ry., 313).

If a bailiff make an arrest before a warrant is delivered to him, he is a trespasser, nor will a warrant subsequently sealed and delivered to him legalize the arrest (*Plomer v. Bull*, 5 Ad. & El., 823). If the warrant be directed to one bailiff and he adds the name of another, or if the warrant be issued in blank, and the bailiff's name be afterwards inserted, the persons whose names would be so added or inserted would be trespassers for taking the defendant or his goods under such an authority (*Housin v. Barron*, 6 T. R., 122, *Burslem v. Fern*, 2 Wils., 47). But it seems sufficient if the bailiff's name be inserted before the warrant is given out of the Sheriff's office, though after the sealing (*Res v. Harris*, 1 Russ. on Crimes, 513). And a mere verbal mistake does not vitiate the warrant (*Williams v. Lewis*, 1 Chit., 611). The authority given by the warrant, being for the administration of justice, is not to be strictly construed; therefore on a warrant to four bailiffs, *jointly and severally*, two may execute it (*White v. Wiltshire*, Palm., 52; *Lashbroke's case*, Hut., 127; *Res v. Hobbs*, Cro. Eliz., 913); but if the warrant be to several, jointly but not severally, they must all be acting in the execution of it (*Boyd v. Durant*, 2 Taunt., 161).

(1) If the Sheriff arrest the defendant and discharge him without taking a bail bond, but have him not at the return of the writ, it is an escape. (See Bac. Abr. Escape D. Cro. Jac., 419.) And if the defendant be in the Sheriff's custody at the return of the writ, but be afterwards allowed to go at large without the consent or without the order of a Court of competent jurisdiction; or if the defendant be rescued from the county gaol, or if being in custody in the county gaol after the writ is returnable, he be taken

When any defendant arrested under *capias* gives bail to the sheriff, the bond, at the request and charge of the prosecutor, is to be assigned to Her Majesty,⁽¹⁾ the assignment being made by endorsement under the sheriff's hand in the presence of two or more witnesses, and without stamp, provided the proper stamp be affixed before the commencement of any suit upon it; and in case of forfeiture of such bond, the usual process on bonds originally made to the Crown, may issue. Sec. 300.

PROSECUTION BY INDICTMENT OR INFORMATION.

The Crown being exclusively concerned in the prevention of offences against the Revenue of Customs, reserves solely to itself the right of proceeding or suing the parties, charged with committing those offences, except as to the summary jurisdiction con-

from the gaol to another place in the same county, even in the gaoler's custody, it is an escape (*Williams v. Mostyn*, 4 Mee. & W., 145).

It is very important, that in all cases where an arrest is made by virtue of a warrant, the warrant, if demanded, should be produced (Per Lord Kenyon, *Hall v. Roche*, 8 T. R., 188).

(¹) The Sheriff, before the statute of 4 Anne c. 16, was not compellable to assign a bail bond taken by him on an arrest, although for refusing to assign it, the Courts would have amerced him; and, according to the old practice, the bail bond was never assigned until the Sheriff had been ruled to bring in the body (*Etherick v. Cowper*, 1 Salk., 99). And even after the Sheriff assigned the bond, the action must still have been brought in the name of the Sheriff, who might, of course, have released the action. But he is now bound to assign the bond to the plaintiff in whose name the action is to be brought. The 300th section of the Customs Consolidation Act varies the provisions of the corresponding section of the statute of Anne, to the extent of enacting, that no matter who may be the plaintiff on the record, the bail bond shall be assigned to the Crown in all cases.

Properly speaking, the plaintiff cannot take an assignment of the bail bond before it is forfeited (*Dent v. Weston*, 4 T. R., 4). The assignment must be while the original cause is pending in Court (*Sparrow v. Naylor*, 2 Blac. R., 876). It may be made by the High Sheriff or by the Under Sheriff, or his clerk, in the High Sheriff's name (*Kitson v. Fagg*, 1 Stra., 60; 10 Mod. 288, s. c.; *Doe v. Brown*, 5 Bar. & Ald., 248); and it must be made in the presence of two or more credible witnesses—(*credible* means *disinterested* witnesses); and an attestation by the plaintiff in the action and another person renders the assignment invalid (*White v. Barrack*, 2 Mee. & W., 425).

ferred on Justices in cases of detention⁽¹⁾. Every indictment or information, therefore, at the instance or suit of the Commissioners of Customs or of Inland Revenue, except in the detention cases just mentioned, must be commenced under the direction of the Commissioners of either of those departments, in the name of the Attorney-General for England or Ireland, or the Lord Advocate of Scotland, or of some officer of Customs or Excise, under the like direction⁽²⁾. Sec. 301.

So also, after the institution of any such proceeding by such Law Officer, he may, (if satisfied, that the fine, penalty or forfeiture sued for, was incurred without any fraudulent intention, or that it is inexpedient to proceed,) enter a *nolle prosequi*, on the indictment or information, as well with reference to any officer's proportionate share of the penalty, as that of the Queen. Sec. 302.

Every such indictment or information must be brought or exhibited within three years⁽³⁾ after the commission of the offence. Sec. 303.

(1) *Vide* section 239, p. 224.

(2) The mode of procedure for recovery of penalties and forfeitures has already been described in secs. 263 and 269.

(3) Upon the corresponding section of the Customs Act, 3 & 4 Wm. IV. c. 53, a question was raised (*The Queen v. Thompson*, 2 B. Rep. 832) as to whether the limitation of three years thereby created, applied to an indictment found by the grand jury of a county at the Assizes. It was held, that the section did not apply to such an indictment, but, exclusively, according to the language of the 120th section of the act, to "suits, indictments, or informations exhibited for any offence against this or any other Act relating to the Customs in any of His Majesty's Courts of Record at Westminster or in Dublin," &c. With respect to that point in the case (but which involved some others besides), the rule of the Court settled the question as to the effect of the statute of Wm. IV. in restricting the limitation to indictments in the Courts specifically mentioned. But, the above section of the Customs Consolidation Act is framed in different terms, and with greater consideration for the subject. It substitutes for "the Courts of Record at Westminster," &c., the words "any Court;" and thereby may be construed to extend the limitation of three years to indictments found at the Assizes, as well as those found in the Superior Courts of Record at Westminster, Dublin and Edinburgh. In this respect only can any doubt exist as to the present application of the case of *the Queen v. Thompson*. As regards another leading point in that case (for several had arisen) viz., whether the limitation prescribed by the Act of Wm. IV. applies to an

Any indictment, prosecution or information relating to the Customs, and instituted or brought by direction of the Commissioners of Customs, may be tried in any county of that part of the kingdom whether of England, Scotland or Ireland, in which the offence was committed, in the same manner, as if it had been committed in the particular county in which the indictment or information shall be tried. Sec. 304.

EVIDENCE.

The general course of evidence is the same in Customs, as in other proceedings. In revenue prosecutions the evidence in support of the case of the Crown will sometimes happen to consist of that of accomplices or persons of depraved character, and it becomes, therefore necessary, to state the degree of confidence, which according to the best and most recent authorities, a jury may extend to such testimony. The general rule is thus stated by Mr. Starkie, in his *Law of Evidence*, (4th Ed., p. 821.) "A witness of depraved and abandoned character may not be unworthy of credit, where it appears that there is not the slightest motive or inducement for misrepresentation." But the doctrine is more distinctly stated by the present Lord Cranworth, in a case tried before him when one of the Barons of the Exchequer,⁽¹⁾ reiterated

indictment, whenever preferred for a conspiracy at common law to defraud the Crown of duties, it is submitted, that the decision of the Court would now, as before, be in the negative.

(1) There is no law nor rule that can be laid down as to what is the quantity of infamy that is to render a person incapable of being believed, and what is the confirmation that juries ought to look to, and it is a matter from the nature of the thing incapable of regulation or definition *a priori*. You can only say, you must be guided, looking at the circumstances of the case, aye or no, do you feel that you can believe with confidence what he says. If you do, the circumstance of his being a man never so immoral, although he had aimed at the *acmé* of infamy, is nothing. His infamy and the circumstances connected with his former life are only material, as being matters, that may or may not guide you to disbelieve what he says. Per Baron Rolfe in *Regina v. Candy*, Exchequer, MSS., May, 1843.

Another important question arose in the case just cited, viz., whether the non-production of matter of exculpation within the knowledge of the defendant ought not to be taken into consideration by a jury in weighing

also by Chief Baron Pollock, in the case of the *Attorney-General v. Lundy Exchequer*, MSS. 1848.

There are certain matters of fact, however, with respect to which, the ordinary rules for the government of judicial testimony are modified, so as to facilitate the proofs on the trial of informations or indictments under the Customs laws.

the question of his non-liability or guilt upon this point, the following observation of Mr. Baron Rolfe in his charge to the jury, is worthy of attention.

"The Attorney-General said, if the account of the defendant is correct, why does he not produce his books, or some evidence about them? On the other hand the defendant says, why am I to be called on to prove my self innocent. It is for you to prove me guilty. This is a sort of *vezata questio* in all these inquiries, in all criminal inquiries, and at last only resolves itself into one of degree. When I lose my watch under circumstances that prove it pretty clear to my mind it is stolen, and a beggar in the street is found with it the next day, you may say, 'why, is he called on the next day to explain how he got it?' Why, only because the circumstances of suspicion are so strong that, if he does not explain, it, we must infer that he got it by some dishonest means. Here the question of the propriety of the observation of the Attorney-General depends on this,—Is the case on the whole, on the part of the Crown, supported by all those circumstances, and the evidence of B., such as it is, such as you can say, it satisfies me, unless the gentleman will explain it. Then, if that is so, the next step you will come to is this,—Has he the opportunity of explaining it? Because even upon suspicious testimony, if a story is told, coherent and confirmed by little circumstances, that evidently were not pre-arranged, but come out as it were accidentally; if such a story is told, and a story strongly fixing guilt on a party, I do not know that I can quite go the length of the Attorney-General to say, it is like a man that has got the pocket under his coat, and he would not choose to disclose it; at the same time I confess, under such circumstances, if I had the means of explaining it, I should feel I was bound to do so, because it is not a satisfactory mode of relying on my justification to say, 'that man is not worthy to be believed, if I have the means of clearing it up.' You must contrast the two observations with each other. If you think the story told by the Crown is really so utterly valueless, supported by testimony, which you must so entirely disregard, that you do not think anybody ought to be called on to give any answer at all to such statements, then there is no necessity for explanation. If, on the other hand, you think, bad as that man (B.) may be, but confirmed as he is by other circumstances calling for an answer, and the answer be given, it comes to be considered, whether the defendant has done all, that he can be fairly called on to do, to give the explanation."

In case of dispute, as to whether the duties have been paid on goods seized for non-payment of such duties, or, in case of any prosecution instituted for recovery of penalties, on the ground of unlawful importation or unshipment, or, where it is important to show, whence the goods were brought, the onus of proving, in the former instance, that the duties had been paid, or, in the latter, that the importation or unshipment was lawful, or, that the goods came from a particular place, lies upon the defendant. Sec. 305.

CERTAIN AVERMENTS DEEMED EVIDENCE UNLESS DISPROVED.

There are various matters, some of a comparatively formal character, and others which, as they fall peculiarly within the cognizance of the defendant, are, if not truly alleged, capable of easy disproof by him. These are when alleged in the information or proceedings to be deemed correctly stated, unless the contrary be proved on the part of the defendant, and are as follow :—

That the Commissioners of Customs or Inland Revenue have directed that any information or proceedings under the Customs Acts shall be preferred or instituted.

That any ship or boat is foreign or belongs wholly or in part to Her Majesty's subjects.

That any person detained or found on board any ship or boat liable to seizure is, or is not, a subject of Her Majesty.

That any goods thrown overboard, staved or destroyed, were so thrown overboard, staved or destroyed to prevent seizure.

That any goods thrown overboard, staved, or destroyed when chased by any ship or boat in Her Majesty's Revenue service were so thrown overboard, staved or destroyed to prevent seizure.

That any person is an officer of Customs or Excise.

That any person was employed for the prevention of smuggling.

That the offence was committed within the limits of any port.

That the offence was committed in the port named. Sec. 306.

So also where, upon any trial, questions arise, whether any person is an officer of the army, navy, or marines, duly employed in the prevention of smuggling, or is an officer of Customs or Excise, his

testimony to the fact or other evidence of his having acted in that capacity is to be deemed sufficient, and, unless a case be made out by the defendant to the contrary without production of his commission or deputation; nor is the competency of such person as a witness, to be affected by any interest he may have in the whole or any part of any seizure or penalty, or by any reward to which he may be entitled on the conviction of the party charged. Sec. 307.

PROOF OF TREASURY, CUSTOMS, OR INLAND REVENUE ORDERS.

Where evidence of any order of the Treasury, Customs, or Inland Revenue is necessary, the production of such order or any letter or instructions referring to it, officially received by any officer of Customs or Excise for his government, and under which he has acted, is sufficient proof of such order.⁽¹⁾ Sec. 308.

ENTRY OF APPEARANCES AND CLAIMS BY OWNERS OF SEIZED VESSELS OR GOODS.

When, by any information the forfeiture of any seized vessel or goods is sought, no appearance or claim is to be admitted thereto, unless made in the true name of the owner, with a statement of his residence, business or profession; nor, if residing in London, Dublin, or Edinburgh, or within the liberties thereof, unless he make oath, before a Judge of the Court, in which the proceedings have been instituted, that the ship or goods belonged to him at the time of seizure; nor, if he reside elsewhere, unless his attorney, proposing to enter such appearance or claim, make oath, that he has been authorised to do so by the owner, and that to the best

⁽¹⁾ The definition of an order of the Commissioners of Customs is already given. Sec. 8, p. 77. The Custom House copy of the searcher's report, produced by the officer in whose custody it is lodged, is evidence of the actual shipment of the goods therein specified. *Tomkins v. Attorney-General*, 1 Dow. 404. *Johnson v. Ward*, 6 Esp. c. 47. But a shipping entry at the Customs House, although for some purposes a Custom House document is not evidence to affect the person, whose duty it was to cause the entry to be made, criminally; the note from which the entry had been made by the officer having been accidentally destroyed. *Hughes v. Wilson*, 1 Stark. c. 179. So, a captain's report to the Custom House, 15 Q. B. 96.

of his knowledge and belief, the goods were, at the time of seizure the property of the person, in whose name the claim or appearance is to be entered. In default of such proofs, the ship or goods are to be condemned and judgment entered thereon, according to the practice of the Court, in default of appearance. Sec. 309.

APPEARANCE AND CLAIMS IN CASE OF JOINT STOCK COMPANIES AND COPARTNERSHIPS.

When vessels or goods⁽¹⁾ belonging to more than five co-partners, are under seizure, it will be sufficient for any two of them, resident as above, to make the verifying oath of ownership. Sec. 310.

In like manner, where the property seized belongs to any joint stock company or partnership firm, actually carrying on trade in the United Kingdom, the claim and appearance may be entered, and the oath made, by the public officer of such company, or any one of the partners of such firm, or their agent. Sec. 311.

Parties making false oaths in the foregoing cases will be guilty of perjury, and punishable accordingly. *Ib.*

ACTIONS BARRED BY CERTIFICATE OF PROBABLE CAUSE OF SEIZURE.

It may sometimes happen, that an information, in respect of a seizure, cannot be legally supported; and this from a variety of causes, such as the absence or death of witnesses, between the seizure and the time of trial, failure on some technical ground, or the difficulty which is often considerable, of procuring evidence of transactions, which from their very nature are conducted with the greatest possible secrecy, although the officer may have had very cogent reasons for making the seizure. The claimant may, therefore, in such a case be successful in obtaining a verdict, and the Judge may feel bound, on the evidence, to direct a jury to find a verdict for him, although he may be of opinion, that the officer was sufficiently warranted by circumstances in making the

(1) Seizing officers to give notice to owner, if known. Sec. 226, p. 216.

seizure. If then the Judge, before whom the case is tried, certify on the record, that there was probable cause of seizure, such certificate will be a bar to any action or suit, which the successful claimant may attempt to prosecute against the seizing officer, and may be so pleaded.⁽¹⁾ The production of such certificate or a copy of it verified by the officer of the Court will be, in such case, sufficient evidence.

There may be also cases, in which from similar circumstances it may not be deemed expedient to proceed by information or suit, or in which, if prosecuted, condemnation of the seizure may have ensued from default of claim, &c.; in any of which cases, the facts would not come before the Court, and consequently no certificate could be given, or the case might be tried and yet no certificate be asked or given. If, therefore, any action, indictment, suit or other proceeding be instituted and brought to trial against any person on account of any seizure, whether any information shall have been brought to trial for the condemnation or not, and the plaintiff obtain a verdict, the Judge before whom such action, indictment, or other proceeding is tried is empowered to certify on the record or other written proceeding that there was probable cause for the seizure⁽²⁾ on account of which such action or indictment is brought. The effect of this certificate will be to limit the plaintiff's damages in such action to

(1) The existence of probable cause was formerly treated as a question or inference of law (*Cox v. Wirrall*, Cro. Jac., 198). In later times it was not unfrequently treated, as a question of fact for the jury (*Candell v. London*, 1 T. R., 520 n.). It is, however, now conclusively settled, that it is a question of law. "In the more simple cases," said Tindal, C.J., in delivering the judgment of the Court of Exchequer Chamber in *Panton v. Williams*, 2 Q. B., 169, when this question depends entirely on the proof of the facts and circumstances, which gave rise to and attended the prosecution, no doubt has ever existed from the time of the earliest authorities, but that such is a question of law to be decided by the Judge."

(2) A Judge's certificate in an action of trespass against Custom-house officers for entering the plaintiff's house, &c., and seizing his goods, "that there was a probable cause for the seizure," was held to cover the seizure only, and not to extend to damages for the deterioration of the goods seized, whilst in the officer's possession (*Laugher v. Breffitt*, 5 B. & Ald., 762; D. & R., 417).

twopence, and to deprive him of costs ; and, on any indictment or other proceeding, it will protect the officer from any other liability than the nominal fine of one shilling. Sec. 312.

It need scarcely be stated, that such a certificate, in case of trial, will be in the nature of a direction to the jury, and the endorsement of its purport upon the record will give consistency to the whole proceedings.

ACTION AGAINST OFFICERS.

No action is to be commenced against any officer of the army, navy or marines, Customs or Excise or other person acting under the direction of the Commissioners of Customs for anything done in the execution of his duty, until one month ⁽¹⁾ after a notice in writing shall have been served on him, either personally or left at his usual place of abode, by the attorney for the plaintiff. Sec. 313.

CONTENTS OF NOTICE OF ACTION.

Every notice of such action is to contain the following particulars ;

The cause of action, clearly stated.

The name and place of abode of the plaintiff.

The name and place of abode or business of his attorney or agent.⁽²⁾ The plaintiff's attorney or agent, is to be entitled to a fee of ten shillings, for preparing and serving such notice. *Ib.*

⁽¹⁾ The day of giving the notice, and that of suing out the writ, are both to be excluded. *Young v. Higgon*, 6 Mees. & W., 49 : *Blunt v. Heslop*, 8 Ad. & E. 577. As to computation of time, *vide* for days note ⁽⁷⁾, p. 117, and for months, note ⁽¹⁾, p. 284, and sec. 29, and note ⁽⁷⁾, p. 92.

⁽²⁾ It is sufficient to endorse the initial of the Christian name of the attorney (*Mayhew v. Locke*, 7 Taunt., 63 ; 2 Marsh, 277). And it will suffice if the attorney describes himself of the town, where he resides, as of Birmingham (*Osborn v. Gough*, 3 Bos. & P., 551). There is this distinction between the above section of the Customs Consolidation Act and the Act which prescribes the contents of notices of actions against magistrates, that the latter does not require the place of the plaintiff's abode to be stated, the above section requiring the statement of both name and place of abode of plaintiff.

ACTION WITHOUT NOTICE.

If any such action be commenced, without giving the required month's notice, the defendant may call upon the plaintiff to satisfy the Court, on affidavits on both sides, that the action is brought for some act, matter or thing not done in the execution of, or

"William Wood, of Rotherhithe, in the county of Surrey, merchant," was held a sufficient description of the plaintiff (*Wood v. Folliott*, 3 Bos. & P., 552, note). But, notice of action against a Custom-house officer "for breaking the plaintiff's house in Cable-street, in the parish of G.," was held not to be a sufficient description of the plaintiff's place of abode, for the plaintiff might have removed, since the trespass was committed, or he might have had two houses and never resided in the *locus in quo* (*Williams v. Burgess*, 3 Taunt., 127).

The notice ought not to be construed with great strictness, its object being merely to inform the defendant substantially of the ground of complaint (*Jones v. Bird*, 5 B. & Ald., 887), so that he may have an opportunity of tendering amends (*Ib.*, *Wood v. Folliott*, 3 Bos. & P., 552, n.). It is quite sufficient, if it calls the attention of the defendant to the general nature of the inquiry, so that he may know, what the ground of complaint is. If it were otherwise, it would be necessary in many cases to have a notice with several counts in it (Per Bailey, C. J., in *Jones v. Bird*). On the other hand, it is not sufficient for a party to state in his notice, that the defendant has offended against the statute, it ought at least to show, on the face of the notice, that an offence has been committed (*Towsey v. White*, 5 B. & C., 183). It has been held, not to be necessary to name all the parties meant to be included in the action, or to express, whether the action is intended to be joint or several (*Bas v. Jones*, 5 Price, 168). But it has been held *à priori* that, if it be stated, the plaintiff must declare accordingly, and therefore, where the notice given, was of an action on the case for false imprisonment and assault, and the action brought was for trespass and false imprisonment, it was held, that it was not sufficient (*Strickland v. Ward*, 7 T. R., 681, n.). The foregoing decisions are here cited as governing the 318th section, inasmuch as, although made on questions as to notice of actions against Justices under 24 Geo. II. c. 44, the language of the latter Act, as to such notice, is substantially the same as under the 318th section of the Customs Consolidation Act.

The notice must state, with convenient certainty, the time and place of committing the act complained of, (*Martins v. Upcher*, 3 Q. B. 662; *Jacklin v. Fytche*, 14 Mee. & W. 381; *Breese v. Jerdein*, 4 Q. B. 585;) though it need not give a venue to every traversable allegation (*Leary v. Patrick*, 19 L. J. M. C. 211.)

A notice of action given in the name of two persons, one being at the time dead is bad (*Filkington v. Riley*, 3 Exch. 789; 6 Dowl. & L. 628).

by reason of his (the defendant's) office, in default of which the action is to discontinue. If, however, the Court be satisfied, that the action was brought for something done by the defendant in his individual and not his official capacity, the plaintiff will not be allowed on the trial to give evidence of any other cause of action than he shall have disclosed in his affidavit. *Ib.*

EVIDENCE IN ACTION ON NOTICE.

The plaintiff is required in every such action to prove the service of the notice, otherwise the officer will be entitled to a verdict with costs. No evidence is to be adduced by the plaintiff of any cause of action, not distinctly stated in the notice. Sec. 314.

TENDER OF AMENDS.

The defendant, in every such action, may, within a month after service of notice, tender amends; and, if not accepted, plead such tender with the plea of "not guilty," and other pleas, with leave of the Court, where such leave must be obtained pursuant to "The Common Law Procedure Act, 1852,"⁽¹⁾. If upon the trial, the jury deem the amends so tendered sufficient, they are to find for the defendant, in which event, or in case of nonsuit, discontinuance, or judgment for the defendant on demurrer, the latter is to have his costs, as if he had pleaded the general issue only. But,

The omission to give a notice is not cured by a magistrate's pleading amends (and, on the same principle, an officer doing so), (*Martine v. Upcher*, 3 Q. B. 662).

The cases above cited were all decided prior to the passing of the Act, 12 & 13 Vict. c. 16, which provides, that no action "shall be commenced against any justice of the peace, until one calendar month at least after a notice in writing of such intended action shall have been delivered to him, or left for him at his usual place of abode, by the party intending to commence such action, or by his attorney," in which said notice, the cause of action, and the court in which the same is intended to be brought, shall be clearly and explicitly stated; and upon the back thereof, shall be endorsed the name and place of abode of the party so intending to sue, and also the name and place of abode, or business, of the said attorney, if such notice have been served by such attorney."

(1) 15 & 16 Vic. c. 76, secs. 80 to 88 inclusive.

in case the jury find, that there was no tender of amends, or that the amount tendered was insufficient, or if they find against the defendant on any of his pleas, the plaintiff will be entitled to a verdict for such damages, as they think proper, together with costs. Sec. 315.

PAYMENT OF AMENDS INTO COURT.

If the defendant omit to tender amends, or make an insufficient tender, he may, by leave of the Court, and at any time before the trial, pay a sum into Court, as amends, and the proceedings thereon are to be regulated by the provisions of the "Common Law Procedure Act, 1853,"⁽¹⁾ which regulate the payment of money into Court and its subsequent appropriation. Sec. 316.

ACTIONS AGAINST OFFICERS TO BE BROUGHT WITHIN TWO MONTHS.

Actions against officers must be brought within two months after the cause of action arises. If it be in respect of a seizure, the cause of action is deemed to accrue the day after the trial of the information, from which date the two months are to be calculated. Sec. 317.

VENUE AND PLEADINGS IN ACTIONS AGAINST OFFICERS.

The venue is to be laid in the county or place, where the cause of action arises. The general issue may be pleaded and special matter given in evidence on the trial; in case of a nonsuit, discontinuance or judgment for the defendant on demurrer, he is to have his costs, recoverable in the ordinary course. *Ib.*

ACTIONS MAY BE BROUGHT IN COUNTY, &c., COURTS.

A party feeling himself aggrieved by any seizure, may, if no tender of amends has been made, as prescribed by sections 315, and 316, proceed by plaint in the County Courts in England, by

(1) 15 & 16 Vic, c. 76, secs. 70 to 73 inclusive. App. p. clxxxv.

civil bill in the Assistant Barrister's Court in Ireland, or by summons in the Sheriff's Court in Scotland. But, he must comply with the provisions, as to notice, section 313, and commence proceedings within the time prescribed for bringing actions in the superior Courts, by sec. 317. He must also lay the damages at an amount within the proper jurisdiction of those Courts.⁽¹⁾ Sec. 318.

VENUE AND PROCEEDINGS IN COUNTY COURT ACTIONS.

When the complaining party resorts to an action in a County Court in England, the venue is to be laid in the district, where the

(1) Under the above and the three succeeding sections, the Courts therein respectively mentioned have a jurisdiction conferred upon them to try actions against officers within the amount of damage limited, but this is not to be construed, as affecting the ancient right of the Court of Exchequer, to try every case, in which the officers engaged in the collection of the revenue may be made defendants, nor the right of the officers to have such case removed from the inferior tribunal for trial by the Exchequer. From the nature and constitution of this Court, it has acquired a general superintendence over Commissioners and officers concerned in raising the revenue, and an exclusive power (unless when restrained by statute) to enforce the due execution of the revenue laws. Hence, if an action be brought in *any other Court* against any officer of revenue, whether under process or otherwise, such action may be removed into this Court (on motion and affidavit of the facts and of service of notice of motion), on the ground that, as this Court is peculiarly conversant with all questions arising upon the construction of the revenue law, it is desirable, that the propriety of the conduct of such officer should be there determined. Nor, is it necessary that the Queen's interest should be in question. The usual order, which operates by way of injunction is, "that the action be removed out of the Court, in which it is depending into the office of Pleas, and that it be there in the same forwardness as in the other Court." (1 Chit. Pr. 316, and the cases there cited; *Siddons v. East*, 1 C. & J., 12; *Beningfield v. Stratford*, 8 Price, 584.)

Section 263 prescribes that these Courts shall be resorted to, with certain exceptions, in prosecutions at the suit of the Crown, where the duties and penalties claimed do not exceed £100, and the jurisdiction of these Courts is therefore extended for the purpose of such suits to £100, the object of this provision was to relieve defendants at the suit of the Crown from the supposed heavier expense attendant on the prosecution of such cases in the Superior Courts, but, the jurisdiction of the Inferior Courts is not extended with reference to actions of the nature contemplated by the present section.

cause of action arises. The proceedings are to be conducted, as nearly as possible in conformity with those prescribed by the Acts and orders, which govern the procedure and practice of those Courts and with a similar right of appeal. But the County Court Judge is to hear and determine the case without a jury, unless on the written consent of plaintiff and defendant. Sec. 319.

VENUE AND PROCEEDINGS IN ACTION BY CIVIL BILL.

When the plaintiff proceeds in the Civil Bill Court, he must resort to a General Sessions of the peace for the division of the county, where the cause of action arises, and the proceedings are to be in conformity with the practice of the Assistant Barristers' Court in ordinary cases.⁽¹⁾ But there is no right of appeal to the Judges of assize; the Chairman, Recorder, or Assistant Barrister being empowered, where, in his opinion, a question of law only is involved, and on consent of the parties, to state a special case for the opinion of a Baron of the Exchequer on the question of law, and the proceedings thereon are, as nearly as circumstances will allow, to be governed by the provisions of the Civil Bill Acts with respect to other cases of appeal, save, that the Baron shall decide on such special case without further proof of the facts. Sec. 320.

VENUE AND PROCEEDINGS IN ACTIONS IN SHERIFF'S COURT.

When the plaintiff proceeds in the Sheriff's Courts in Scotland the venue is to be laid and the proceedings conducted as nearly as may be in accordance with the several statutable provisions which regulate the procedure in those Courts.⁽²⁾ Sec. 321.

DAMAGES IN ACTIONS AGAINST OFFICERS.

As a general rule, if a plaintiff proceed by action for damages in the superior Courts, in respect of any seizure, and the damages recovered do not exceed £20 he is not to be entitled to any costs against the defendant; and it will not be necessary to enter any suggestion on the record to deprive him of costs. There are,

⁽¹⁾ The 14 & 15 Vic. c. 57, Ireland, is the Consolidated Act by which the practice of the above courts is chiefly regulated.

⁽²⁾ 16 & 17 Vic. c. 80, Scotland.

however, some exceptions to this rule. The plaintiff will not be deprived of his costs, if the Judge at the trial certify on the record, that from the nature of the case, it could not be tried in the inferior Court; or, if the Judge shall certify that, although within the jurisdiction of the inferior Court, it was a proper case to be tried in a superior Court; or, in case there shall be no trial, as for instance, in case of judgment by default, verdict by consent, &c., the Judge may order costs. Sec. 322.

SOLICITOR, ASSISTANT-SOLICITOR, SOLICITOR'S CLERKS, &c., MAY ACT AS COUNSEL, ATTORNEY OR WRITER TO SIGNET.

The power conferred upon the officers of Customs in the Solicitors' and other departments to act as attorneys, or writers to the Signet, in, and generally to conduct, Customs cases, is not new.⁽¹⁾ The jurisdiction in Customs cases being considerably extended, and the tribunals having cognizance of them being multiplied by the Act, a commensurate extension of the professional privilege became necessary.

The Solicitor, or Assistant-solicitor, or any clerk duly appointed to act on his behalf or under his directions, is entitled in cases relating to the Customs, or under the directions of the Commissioners of the Treasury or the Customs, to act as Counsel, Solicitor, Attorney-at-law, Advocate, or Writer to the Signet in the prosecution, conduct or defence of any such case in any Court, jurisdiction or place, in which such case may be instituted, and any such Solicitor, Assistant-solicitor, clerk, or other officer of Customs, under the order of the Commissioners of Customs, may prosecute defend or conduct any proceeding relating to the Customs before Justices.⁽²⁾ Sec. 323.

(1) *Vide* 9 Geo. IV. c. 25, and 9 & 10 Vic. c. 102, sec. 20.

(2) The Crown's right of reply, is reserved by the 11 & 12 Vic. c. 43, which exempts revenue cases from the operation of the Act.

CHAPTER VI.

RECIPROCITY OF COMMERCIAL PRIVILEGES.

The practice of entering into Conventions for guaranteeing reciprocal commercial advantages to Contracting Sovereigns and States is of ancient date, and still in considerable favour. It is not, however, so much the province of the author to discuss the policy of such international stipulations, as to state, with a view to a clear apprehension of the law on the subject, what it now is, and what legislative changes it has, from time to time, undergone.⁽¹⁾

Until very recently, whenever any proposal in favour of mutual commercial concessions between this country and any foreign state was made and accepted, the course usually adopted was, to frame a convention setting forth the conditions and particulars of the proposed contract. The convention being duly executed by the contracting parties, effect was given to it by subsequent Acts of their respective legislative authorities. Thus, in the several Acts, which were passed towards the close of the reign of Geo. III. we find a recital of the antecedent treaties or conventions on which they were based, nor was the practice, so far as concerned this country, departed from, until the passing of the 4th Geo. IV. c. 77.

(1) The use, the lawfulness, and the obligation of commercial treaties are thus generally laid down by Vattel. "As each nation is only so far obliged to carry on commerce with others, as she can do it, without being wanting to herself, and as the whole ultimately depends on the judgment that each state may form of what it can and ought to do in particular cases; nations cannot count on any thing more than generalities, such as the inherent liberty of each to carry on trade, and moreover on imperfect rights, which depend on the judgment of others, and consequently are ever certain; wherefore, if they wish to secure to themselves any definite and constant advantages, they must procure them by treaties."

By sec. 1 of that Act, Her Majesty was empowered by Order in Council, published in the London Gazette, to permit the importation into or the exportation from, the United Kingdom, or from any other portion of her dominions, of goods in foreign vessels, on payment of the same duties, and with the same drawbacks, as goods imported and exported in British vessels. But, before any such Order could be issued, proof was to be given, that the foreign country, so favoured, extended corresponding privileges to merchandise imported or exported in British vessels.

In like manner, Her Majesty was, under sec. 2, empowered by similar Order to impose additional duties upon, or withhold drawbacks from, goods imported or exported in foreign vessels, where higher duties were imposed on, or drawbacks withheld from, goods imported or exported in British vessels, than in the vessels of the foreign country; the additional duties in such case to be levied in the same manner as other duties of Customs.

Her Majesty was also empowered, by sec. 4 of the same Act, to remove or reimpose such duties or allow or discontinue such drawbacks as circumstances might render expedient.

After the passing of the above Act, a doubt arose, as to whether its provisions extended to the levying, under the authority of Orders in Council, of additional tonnage duties upon the vessels of foreign countries, withholding reciprocal relations with Her Majesty's dominions. To remove this doubt, an Act was passed in the next session 5 Geo. IV. c. 1, declaring valid an Order in Council made in favour of the United States of America under the authority of the 4th Geo. IV. c. 77, with an indemnity to persons acting under such Order and barring all actions or other proceedings. To place the matter on a more certain basis for the future, by sec. 3 of the last mentioned Act, the power to levy tonnage duties, under the circumstances mentioned, was given by express enactment with liberty to remove, or re-impose them, as might be deemed expedient.

The next Act to which reference may be made, as indicating the character of our legislation, with respect to commercial conventions with foreign states, is the 8th and 9th Vic. c. 90. By the 8th section of that Act, Her Majesty was empowered

by Order in Council to direct the levying of an additional impost, not exceeding one-fifth of the existing duty, on any goods, the produce of any country, which should levy higher duties upon goods the produce or manufacture of Her Majesty's dominions, than upon goods the produce or manufacture of such country; and to impose such additional duties upon goods imported into the United Kingdom in foreign ships, as should be imposed on goods imported into such country in British ships, or, in case of higher tonnage duties being imposed on British than on the national ships of such country—thereby varying, in some respects, the provisions of the 4th Geo. IV. c. 77, and in subsequent sections, confirming the power of the Sovereign to make Orders in Council, as granted by that Act, in cases, where treaties of commerce were, or should be, entered into between Her Majesty and foreign states.

The next Act, dealing with the subject of reciprocity, was the Navigation Act,⁽¹⁾ which repealed the 8 & 9 Vic. c. 90, and which, in its turn, has been repealed by the Customs Consolidation Act, into which, however, the 10th and 11th sections have been introduced,⁽²⁾ as containing provisions peculiarly applying to the Customs Revenue, and which, without reference to the question of any previous convention, empower Her Majesty by Order in Council to restrict foreign ships, in case of similar restrictions being imposed by the foreign state on British vessels, and to impose additional duties; (does not, like the 8th and 9th Vic. c. 90,) specify the amount.

A further Act, 15 & 16 Vic. c. 47, after reciting the statutes under which the old international practice obtained, and that it was expedient to give Her Majesty in Council power, without treaty, of entering into reciprocal commercial relations with foreign states generally, provides, that, where the trade and shipping of Great Britain have been placed, in the ports of any foreign power, on a footing of reciprocity, Her Majesty may issue an Order in Council, declaring the trade and shipping of such foreign power to have the benefit of the provisions of the Act, and also

(¹) 12 & 13 Vic. c. 29.

(²) Sec. 324, *et seq.*

of those of the 59th Geo. III., c. 54. The reciprocity sections of the "Customs Consolidation Act, 1853," re-enact the provisions of 8 & 9 Vic. c. 93, sec. 47 & 90, and of 12 & 13 Vic. c. 29, secs. 5, 6, 10, 11, 12, 13, 14, but omit, without repealing, those of the 15 & 16 Vic. c. 47, which dispense with the necessity of a Commercial Treaty or Convention as preliminary to the exercise of the powers thereby given to Her Majesty in Council.

The following are the provisions of the Customs Consolidation Act on this subject.

POWER BY ORDER IN COUNCIL TO IMPOSE PROHIBITIONS ON
FOREIGN SHIPS AND GOODS.

When it shall appear, that British vessels are subject in any foreign country to any prohibitions or restrictions as to the voyages in which they may engage, or as to the articles, which they may import into or export from such country, Her Majesty may, by Order in Council, impose such restrictions and prohibitions upon the ships of such foreign country, either, as to the voyages in which they may engage, or as to the articles, which they may import into, or export from, the United Kingdom, or from any British Possessions, as she may think fit, so as to place the ships of such country as nearly as possible on the same footing in British ports, as that on which British ships are placed in foreign ports. Sec. 324.

WHEN ADDITIONAL DUTIES MAY BE IMPOSED.

The authority thus reserved to the Sovereign in Council is not confined to the power of restriction and prohibition given over the foreign ship and her cargo, but extends to the right of annulling the amount of tonnage duties, established by existing Acts of the legislature. Its vindication rests upon the same doctrine of retaliation. In either case, the injury inflicted by the foreign State might be done at a time, when Parliament was not sitting, and, even if it were, might create mischiefs, which could not be remedied by the slow process of legislative enactment. With good reason, therefore, the Act provides, that, when it shall be made to appear, that British ships are subjected, in any foreign

country, to duties or charges, from which the vessels of such country are exempt here; or, that duties are imposed upon articles imported or exported in British ships, which are not imposed upon the like articles, when imported or exported in vessels of such Foreign State; or, that any preference is shown to foreign over British vessels; or, to articles imported or exported in foreign vessels over those imported or exported in British vessels; or, that British trade and navigation are not placed by such country upon as advantageous a footing as those of the most favoured nation, the Queen in Council may impose such tonnage duties upon the ships of such nation, entering into or departing from any British port or any port in the British Possessions, as may countervail the disadvantages to which British trade or navigation may be so subjected. Sec. 325.

In every such Order, the ships of the countries to which it applies, may be specified; and all ships coming within such specification, are to be affected by the provisions of the order so made. Sec. 326

TRADE OF CERTAIN COLONIES MAY BE REGULATED BY ORDER
IN COUNCIL.

By the like Order, Her Majesty may regulate the trade and commerce to, and from, the British Possessions on or near the Continent of Europe, or within the Mediterranean or in Africa, or within the limits of the East India Company's Charter (except the possessions of that Company) as may be deemed proper. Any goods imported or exported in violation of such order are, together with the importing or exporting ship, to be forfeited. Sec. 327.

TRADE OF COLONIES GENERALLY MAY BE REGULATED BY
ORDER IN COUNCIL ON REQUEST.

Her Majesty, on an address from the recognised Colonial authorities, may, by Order in Council, permit the conveyance of goods or passengers from one part of such Colony to another in foreign ships. So also, on the joint address of the legislatures of any two or more possessions declared by Her Majesty to be

for such purposes neighbouring possessions, the trade between them may, by Order in Council, be put on the footing of a coasting trade, or be otherwise regulated as may seem fit to Her Majesty. Sec. 328.

COASTING TRADE OF INDIA.

As regards the coasting trade of India, the Governor-general in Council, may regulate or permit the conveyance of goods and passengers in other than British ships. The regulations so made are to be sent to England and laid before both Houses of Parliament for approval. Sec. 329.

PUBLICATION OF ORDERS IN COUNCIL.

Every such Order in Council is, within fourteen days after it is issued, to be published in the London Gazette, and a copy is to be laid before Parliament within six weeks after it is issued, if Parliament be sitting, and if not, within six weeks after the commencement of the next session. Sec. 330.

Orders, made under the authority of the Act, may be from time to time revoked. Sec. 331.

ACQUISITION AND DISPOSAL OF LANDS.

The sections of the Act, which come next in order, are those, which relate to the acquisition of land for the service of the Customs, and the disposal or leasing of it, when no longer required for such service. These extend from the 332nd to the 345th a proportion of the Act, which may seem excessive, considering the great opportunity for abridgment afforded by the Land Clauses Consolidation Acts. Valuable, however, as these Acts have proved, it was deemed inexpedient to discard altogether the provisions of the old law, for obtaining lands for Customs' purposes. The means afforded by those enactments for the purpose were efficacious, but the machinery was circuitous. The reformation of this machinery appeared therefore desirable, as far as convenient. On reference to the Act itself, it will be observed that such portion of the "Lands Consolidation Acts," as seemed calculated to facilitate the object, has been adopted and incorporated. In

these sections, the interest is strictly of a conveyancing character. The only department of the Customs materially concerned in this branch of the law is that of the Solicitor, and when acted upon, the statute itself must necessarily be consulted by the parties interested. It, however, may be proper to add, that the sections of the Common Law Procedure Act, 1852, which regulate the allocation of money paid into court, have not been overlooked; the improvements, which the new practice has introduced in that respect, having been unreservedly adopted. The clauses of these and other incorporated Acts, are given in the appendix.

THE ISLE OF MAN.

The provisions of the Act, which regulate the Customs' Duties and trade of the Isle of Man, are now for the first time incorporated with the general law of the United Kingdom, though brought together under a distinct head. With respect to these, it seems not a little curious, that the people of this Isle should, in these times, evince any indisposition to embrace every institution, whether commercial or otherwise, of that integral kingdom, of which it is now, though not for the first time, the property. ⁽¹⁾

(1) Sharing the fate of all circumscribed sovereignties, the Isle of Man underwent many transitions. The vicissitudes through which it has passed may be briefly summed up. It was at an early period held by the Kings of Northumberland, who retained it until it was conquered by the Norwegians. In 1226 it was purchased from them by Alexander the Third of Scotland. It was afterwards held by Lord Scrope, who forfeited it to Henry IV., who, in the first year of his reign, granted it to Henry Earl of Northumberland; and on his being attainted of treason in the fifth year of Henry IV., it again reverted to the Crown, and was granted to John, Lord of Stanley and Man. In 1751, upon the attainder of James Stanley, Earl of Derby, it was conferred by Parliament upon Lord Fairfax. On the restoration, it reverted to its ancient Lords, and on the death of Charles, Earl of Derby, in 1735, it became vested in James, Duke of Athol, as heir-general of Earl James. In 1764 it was sold by Charles, Duke of Athol to the British Government, with all its rights of sovereignty, for £70,000: and, in 1792, on the ground that it had been purchased much below its value, an additional compensation of £3,000 a year was granted to the Dukes of Athol for ever.

A passion for nationality still prevails amongst the inhabitants, who regard all interference with ancient usages and establishments with impatience. The once courtly hill of Tynwald—the regal solemnities of Glánfaba, the barons, beneficed-men and deemsters, who figure prominently in the first printed ordinance of the island, have not entirely faded from the traditions and affections of the Manx men. Antiquated pretensions and venerable claims of right continue to be pleaded against the policy and advantages of incorporation. With pretensions of so innoxious a character,⁽¹⁾ and especially, when unattended with any decided inconvenience to the trade of the kingdom, it has not been deemed necessary to interfere, and with the exception of being made part of the United Kingdom for revenue purposes, every venerated, though nominal, right and privilege of the island as subsisting at the time of the passing of the Act, has been respected. The Act, however, goes far enough to reverse the dictum of Lord Coke, that the Isle of Man is no part of the realm of England."⁽²⁾ The distinction between the duties chargeable in that island and the mother country, though materially altered by the new Tariff, still survives, and separate tables are assigned to each; though, by the Customs Consolidation Act, the Isle of Man is declared to be part of the United Kingdom, for Customs purposes. Sec. 346.

WHAT GOODS MAY NOT BE IMPORTED INTO ANY OTHER PART
OF THE UNITED KINGDOM FROM THE ISLE OF MAN.

1. No foreign goods chargeable with a higher duty on importation into Great Britain or Ireland, than into the Isle of Man, (after delivery out of the charge of the Customs for consumption or otherwise in the Isle of Man) are to be carried, waterborne or shipped to be conveyed into Great Britain or Ireland.⁽³⁾

2. Nor shall such goods, though not so cleared and delivered, be conveyed thence into Great Britain or Ireland, unless duly cleared for the purpose by the proper officer of Customs.

(1) *Vide* Mills's *Antient Statutes and Ordinances of the Isle of Man. Passim.*

(2) 4 Inst. 201.

(3) *Vide* note (2), p. 152.

3. Nor (unless reported for removal in the same ship and in continuation of the voyage to some port in Great Britain or Ireland) unless security be given by bond or otherwise for the delivery thereof at some place in Great Britain or Ireland. Goods, dealt with contrary to the above provisions, will be liable to forfeiture; and every person concerned in so dealing with them will be liable to a penalty of treble the value of the goods, or £100, at the election of the Commissioners of Customs. Sec. 347.

WHAT GOODS MAY BE IMPORTED INTO GREAT BRITAIN OR IRELAND FROM THE ISLE OF MAN DUTY FREE.

The following goods may be imported into Great Britain or Ireland from the Isle of Man free of duty of Customs.

1. Goods, the growth of the Isle of Man.
2. Goods manufactured from materials the growth of the said isle.⁽¹⁾
3. Goods made from materials, upon which the duty has been paid in Great Britain or Ireland, no drawback thereon having been granted.

But, the above goods are to be charged, with such proportion of such duties as shall countervail the Excise duties⁽²⁾ payable on the like goods, the produce of that part of the United Kingdom, into which they shall be brought.

Any articles, either wholly or in part, manufactured in the said

(¹) It is necessary here to notice the fact, that an Excise provision, section 49, of 7 Geo. IV. c. 48, remains unrepealed. The Act, with the solitary exception of that section, was repealed by the 3 & 4 Wm. IV. c. 50 sec. 2, and it consequently survived the repeal of that Act and its successors. The provision is, that no low wines or spirits shall be made in the Isle of Man from any materials whatever; and if any person shall make or procure them to be made, or use or mix, or procure to be used or mixed, any materials with worts or wash, in or making them, or put or lay, or procure to be put or laid, in any utensil, any materials for preparing worts or wash, or making low wines or spirits in the Isle, every such person, and every person in whose possession any utensil, used contrary to the Act, shall be found, for every offence shall forfeit £200, besides the materials, worts, wash, low wines, spirits, or utensils, which may be seized.

(²) *Vide* note (¹), p. 288.

isle from materials upon which a higher duty is paid on their importation into the United Kingdom, than into the Isle of Man, may be brought into Great Britain or Ireland on payment of the duties payable in that part of the kingdom, into which they are brought. Sec. 348.

CERTIFICATE OF PRODUCTION.

On the importation, from the Isle of Man into Great Britain or Ireland, of goods, the growth of that isle, or made from materials the growth of that isle, or from materials not subject to duty in Great Britain or Ireland, or upon which the duties have been paid and not drawn back in Great Britain or Ireland, a written declaration of the fact is to be made, to the satisfaction of the collector or comptroller of Customs, at the port of shipment, describing and identifying the goods and stating the name of the intended shipper, who, within a month⁽¹⁾ afterwards, shall also make and sign a further declaration before the same officers, that the goods, to be shipped, are the same, whereupon those officers shall give the master of the export ship a certificate⁽²⁾ of such proof of produce or manufacture, describing them and stating the name of the party, the master of the ship and the destination of the goods. Sec. 349.

EXCISE DUTIES AND DRAWBACKS NOT TO BE AFFECTED.

The foregoing provisions are not to affect the laws and regulations in force as to duties and drawbacks of Excise on goods removed to the Isle of Man. Sec. 350.

STORES OF MANX SHIPS.

Ships, &c., from the Isle of Man to Great Britain or Ireland

(1) Where a statute formerly spoke of a month, without adding "calendar," or other words indicating a contrary intention, it used to be intended a lunar month of twenty-eight days (*Lacon v. Hooper*, 6 T. R., 224; *Crooke v. McTavish*, 1 Bing., 307); but now it is enacted by the 13 & 14 Vic. c. 21 s. 4, that in all Acts of Parliament, the word "month" shall be taken to mean *calendar* month, unless words be used, showing that a lunar month is intended.

(2) This certificate is, by sec. 157 p. 190, required to be produced on arrival in Great Britain or Ireland.

are not, on pain of forfeiture of the goods and ship, to carry more than the following stores.

In ships or decked vessels, for each seaman, half a gallon of spirits and one pound of tobacco and for the whole crew, two pounds of tea. In open boats, for each seaman, one quart of spirits and half a pound of tobacco and for the whole crew one pound of tea. Sec. 351.

TREASURY MAY RESTRICT IMPORTS TO THE ISLE OF MAN.

The Commissioners of the Treasury may, at any time, by their order, restrict or limit the importation of foreign goods into the isle to such quantities per annum, as they may think necessary; and determine the ports, into which such goods may only be imported. Sec. 352.

MANAGEMENT OF CUSTOMS IN THE ISLE

The Customs' Duties on imports into the Isle of Man are to be under the management of the Commissioners of Customs, and (deducting the charges of collection and accounting) are to be, from time to time, paid into the Exchequer, distinct from other branches of the revenue, but to form part of the consolidated fund. But, the collectors of the Isle are to retain monies, under the direction of the Commissioners of Customs, to defray the expenses of the government, the administration of justice and other usual charges. Sec. 353.

EXPENSES OF THE GOVERNMENT OF THE ISLE TO BE RETAINED.

The expenses of the government of the Isle, together with £2,300 per annum, are to be retained out of the Customs' duties, and paid to the Receiver General of the said Isle, to be applied, under 8 & 9 Vict. c. 94, for the purposes of the Harbour Commissioners. Sec. 354.

ALLOWANCE FOR PUBLIC WORKS IN THE ISLE.

In addition to the foregoing sums, one-ninth of the amount of the duties collected, is to be applied by the Commissioners of the

Treasury in improving the harbours and other public works in the Isle, the former taking priority. The Court of Tynwald is to determine, subject to the veto of the Lieutenant Governor, what works are to be undertaken. Sec. 355.

MISCELLANEOUS CLAUSES.

The Act concludes with the three following clauses of general application.

ANNUAL PUBLICATION OF GENERAL CUSTOMS ORDERS.

The general Orders of the Commissioners of Customs of each year regulating the service, are to be printed as early as convenient after the expiration of each year. Sec. 356.

INTERPRETATION CLAUSE, &c.

The legal construction to be put on various terms used in the Act, is declared by an interpretation clause, for which *vide* Appendix, Sec. 357.

REPEAL CLAUSE.

The pre-existing enactments repealed by this clause, are enumerated in Schedule A, ⁽¹⁾ to which it refers. Sec. 358.

REGISTRATION OF THE ACT IN THE CHANNEL ISLANDS.

The Act is directed and authorized to be registered in the Royal Courts of the Channel Islands.⁽²⁾ Sec. 359.

DATE OF OPERATION AND TITLE OF ACT.

The Act is declared to come into operation from the day of the passing⁽³⁾ and is to be cited by the short title of "The Customs Consolidation Act, 1853." Sec. 360.

⁽¹⁾ *Vide* Appendix, p. clxix.

⁽²⁾ The Act was registered in the Royal Court of Jersey on the 27th day of October, 1853.

⁽³⁾ The date of the Royal Assent, 20th day of August, 1853.

CHAPTER VII.

CUSTOMS TARIFF ACT, 1853.

THE reasons for giving precedence to the provisions of the Customs Consolidation Act, have been stated in the preface. Those of the Act for consolidating the duties of Customs, as distinct from the more general law, relating to their management and collection, are few in number. That portion of the public, who are conversant with the pre-existing laws, cannot have failed to observe, that the tables to the duties' Acts and to the various amendments thereof, have been almost invariably prefaced with a repetition of clauses properly constituting parts of the general Acts for the regulation of the Customs, the collection of the duties, and warehousing of goods, on which payment of the duties is deferred by the importer, &c. By the present scheme of consolidation, all the general regulations affecting importation and subsequent dealings with goods, from their first arrival in port to their final discharge from the custody or supervision of the Crown have been embodied as standing clauses in "the Customs Consolidation Act, 1853," applicable, as general provisions, to any impositions of duty, present or future, thereby avoiding, as far as practicable, the inconvenience of reference to more than one Act for the laws and regulations, which affect the transactions of the mercantile body with the Customs—hence it will be seen that the Customs' Tariff, 1853, with the exception of a declaratory clause and a special provision, not of general application, affecting only the mode of assessing the duty on a particular

article, sugar—contains nothing beyond the necessary preamble, and the formal declaration, that the new duties, and drawbacks shall be substituted for the pre-existing ones.

In pursuance of the desire of the Government to present at one view the whole of the articles falling within the provisions of the law, the tables to the various pre-existing Duties' Acts have been combined in one consolidated Tariff, though in two divisions, headed A and B, the former having reference to Great Britain and Ireland, and the latter to the Isle of Man. This combination comprises (subject to the changes consequent on the repeal of some duties, and the reduction of others,) the contents of no less than eleven tables of nine separate Acts now repealed.

The majority of the articles enumerated in this Tariff consists of free goods; and, *primâ facie*, it might appear that brevity and general convenience would have been better consulted by the enumeration of those goods only, upon which duties are retained, or by arranging the various articles under the two heads of *Dutiable* and *Free*, but, it must be borne in mind, that very elaborate statistical returns are required by Parliament, for general commercial purposes, to which much importance is attached, and the present classification has been adopted, as the most conducive to that object, whilst the alphabetical arrangement of goods liable to duty, with those declared free, has been considered, best calculated to afford the importer the readiest information for due entry of his goods.

IMPOSITIONS OF NEW DUTIES AND DRAWBACKS.⁽¹⁾

The Act commences by abolishing all pre-existing duties and drawbacks, payable in the United Kingdom of Great Britain and

(1) INLAND REVENUE DUTIES AND DRAWBACKS.—It is proper here to notice that there are also the following Inland Revenue, and countervailing duties and drawbacks charged or allowed; but, as to spirits, only on removal from bonded warehouses.

In this note Ex. signifies Excise or Inland Revenue duty: and C. countervailing duty. Where there is no countervailing duty separately mentioned, the whole duty is taken as countervailing.

Ireland, substituting in their stead, the duties and drawbacks enumerated in table A. Sec. 1.

Spirits made in England per gallon proof, Ex. 7s. 10d., 6 Geo. IV. c. 80, 1 Wm. IV. c. 49, and 3 & 4 Vic. c. 17. *Spirits made in Scotland* for consumption there, per gallon, proof, Ex. 4s. 8d., C. 3s. 2d. on removal to England, 4 & 5 Wm. IV. c. 75, 3 & 4 Vic. c. 17, and 16 & 17 Vic. c. 37.

Spirits made in Ireland for consumption there, Ex. 3s. 4d., C. 4s. 6d. on removal to England, 4 & 5 Wm. IV. c. 75, 3 & 4 Vic. c. 17, and 16 & 17 Vic. c. 37.

Spirits imported from Scotland or Ireland into England not having paid duty are, on arrival, deemed British, and chargeable on delivery for consumption, per gallon, proof, Ex. 7s. 10d. On *spirits* distilled in *Scotland* from malt only, upon which the Scotch duty is paid by the distiller, an allowance, per gallon, proof, of 8d. and 5 per cent. thereon is paid to him in respect of the malt used in the manufacture; he, however, having the option of bonding without receiving such malt allowance; but, when the allowance has been claimed, if subsequently removed to *England* or *Ireland* for home consumption, the 8d. and 5 per cent. must be repaid to the Crown. 6 Geo. IV. c. 80, 1 Wm. IV. c. 49, and 3 & 4 Vic. c. 17.

Spirits, quality of plain British, made in the *Channel Islands*, on importation into *England*, per gallon, proof, Ex. 9s. 0d.: on importation into *Scotland*, per gallon, proof, 5s. 10d.; on importation into *Ireland*, per gallon, proof, Ex. 4s. 6d., 8 & 9 Vic. c. 65, and 16 & 17 Vic. c. 37.

Sugar manufactured in the *United Kingdom*, per cwt., Ex. 10s., 18 & 14 Vic. c. 67.

Malt made from barley, per bushel, Ex. 2s. 7d., 6 Geo. IV. c. 58. T. O. 11th May, 1826, add. 5 per cent., 3 & 4 Vic. c. 17; and *malt made from bear or bigg* in *Scotland* or *Ireland*, per bushel, Ex. 2s., 6 Geo. IV. c. 58, and 11 Geo. IV. c. 31: additional 5 per cent. by 3 & 4 Vic. c. 17.

Hops grown in Great Britain, per lb., 2d., and *hops* imported from *Ireland* to *England*, per lb., Ex. 2d., 43 Geo. III. c. 69, and 45 Geo. III. c. 94; additional 5 per cent. on each by 3 & 4 Vic. c. 17.

Paper, glazed, sheathing, and button paper, or by whatsoever name paper may be known, button board, mill board, pasteboard, and scale board, per lb., Ex. 1½d., 2 & 3 Vic. c. 23; additional 5 per cent. by 3 & 4 Vic. c. 17.

There are also the following countervailing stamp duties, viz., *Gold plate*, wrought, per oz., troy, C. 16s.; *Silver plate*, wrought, per oz., C. 6d. 4 Geo. IV. cap. 26.

The following countervailing duties of Inland Revenue are charged on medicated spirits by 16 & 17 Vic. c. 37.

Ether from *Scotland* to *England*, per gallon, 7s. 11d., from *Ireland* to *England* 11s. 8d., and from *Ireland* to *Scotland* 3s. 4d.

Sweet Spirits of Nitre, camphorated spirits, lavender water, and other perfumes, being spirits scented with essential oils, flowers, or other ingre-

PRODUCE OF GIBRALTAR, &c., DEEMED FOREIGN.

The manufactures of Gibraltar, Malta and Heligoland, made of materials of foreign produce liable to duty upon importation into

dients, compound spirits of lavender, spirits of rosemary, spirits of ammonia, sal volatile, Friar's balsam, compound tincture of benzoin, tincture of asafoetida, tincture of castor, tincture of kino, tincture of guaiacum, tincture of myrrh, tincture of ginger, spirit varnishes, per gallon, from *Scotland* into *England* 4s. 9d., from *Ireland* to *England* 6s. 9d., from *Ireland* to *Scotland* 2s.

Other tinctures and medicated spirits, per gallon, from *Scotland* into *England* 3s. 2d., from *Ireland* to *England* 4s. 6d., from *Ireland* to *Scotland* 1s. 4d.

Made wines, per gallon, not exceeding 24 per cent. of spirit, from *Scotland* to *England* 4½d., from *Ireland* to *England* 6½d., and from *Ireland* to *Scotland* 2d.

Drawback is not payable on made wines containing less than 24 per cent. of spirit, 5 Vic. c. 25, sec. 2.

On the removal or return of the above medicated spirits and wines, whether imports or home manufactures, to the countries, from which they come, a countervailing drawback, equal to the amount of duty paid thereon in the country from whence they are removed, is allowed.

There are also the following Excise or Inland Revenue drawbacks payable on exportation.

Beer made in the United Kingdom, exported as merchandize, the specific gravity of the worts used in brewing, before fermentation, being not less than 1,054, nor more than 1,081, per 36 gallon barrel, 5s.; of not less specific gravity than 1,081, 7s. 6d., and 5 per cent. additional. 9 & 10 Vic. c. 5 sec. 7.

Hops, British cured, per lb., 2d. 1 & 2 Geo. IV. c. 100, and 5 per cent. thereon. 3 & 4 Vic. c. 17.

Books in complete sets, or if periodical publications in perfect parts or numbers—account books, ruled or plain, per lb., 1½d., and 5 per cent. thereon. 2 & 3 Vic. c. 23, and 3 & 4 Vic. c. 17.

Paper, viz., sheathing paper, button paper, button board, mill board, paste board, scale board, and all paper glazed or other pressed papers made and charged for duty, per lb. 1½d., and 5 per cent. thereon; and printed, painted, or stained, per doz. square yards 2d., and 5 per cent. thereon. 2 & 3 Vic. c. 23, and 3 & 4 Vic. c. 17.

Spirits. On exportation or shipment as stores from an Excise, Bonded or Duty-free warehouse, or removal to a Customs' warehouse for exportation or shipment as stores, made from malt only, per gallon, proof, 7½d. and 5 per cent. thereon; made from other materials 1½d. 11 & 12 Vict. c. 22, secs. 11 and 12.

the United Kingdom, and upon which no duty has been paid or, upon which, if paid, the drawback has been allowed in this kingdom, are to be deemed to be the produce of, and imported from, a foreign country. Sec. 2.

STANDARD SAMPLES OF CLAYED SUGAR FOR ASSESSING DUTY.

For the assessment of duties, upon white clayed sugar, or sugar rendered by any process equal to that article, with respect to colour, grain and saccharine matter, and upon brown clayed sugar, or sugar rendered by any process equal in quality to that article, the Commissioners of Customs are to provide samples by which such sugars, when entered for home consumption, are to be tested. As regards the duty, these descriptions of sugar are not to be deemed to belong to either class, unless equal to the appropriate standard sample. Sec. 3.

IMPOSITION OF NEW DUTIES IN LIEU OF FORMER ONES IN THE ISLE OF MAN.

The duties enumerated in table B. are imposed on importations into the Isle of Man, instead of those previously chargeable. Sec. 4.

POWER VESTED IN THE TREASURY TO REMIT AD VALOREM DUTY ON UNENUMERATED ARTICLES.

The Commissioners of her Majesty's Treasury are empowered, from time to time, to make orders for the remission of the duty, of £15 per cent. imposed by table B. on unenumerated articles, for such period, as they may deem expedient⁽¹⁾ and to revoke such orders, when they may think fit. Sec. 5.

Spirits, rectified. On removal to a Customs' warehouse for exportation or shipment, as stores, per gallon, proof, from *England* 7s. 11½d., from *Ireland* 3s. 5½d., and from *Scotland* 4s. 9½d. 11 & 12 Vict. c. 122 secs. 11, 13, 14, 16 and 21.

Under the same Act, section 15, 16, & 17, spirits can only be removed into a Customs' warehouse for exportation, and, when there, are subject to the same rules and regulations as foreign spirits.

For Customs' Drawbacks, *vide* note ('), p. 160.

(¹) The Treasury exercised this power by Order of 27th August, 1853, remitting the duty until further orders.

NOTICE OF TREASURY ORDER.

Every order made in pursuance of the preceding authority, is to be notified by advertisement in the London and Dublin Gazettes; and copies of such orders are to be laid before both Houses of Parliament, if sitting, within six weeks after the date of such order; but, if not sitting, within six weeks after the commencement of the next session. *Ib.*

FREE GOODS.

Goods described as free, in table A. are to be admitted without payment of duty into the United Kingdom; and those described as free, in table B. are to be admitted into the Isle of Man, without payment of duty. Sec. 6.

METAGE DUES ON FRUIT.

This provision is merely to guard against any interference with local interests which might inadvertently arise from the operation of a general statute. The metage dues payable on fruit imported into London are therefore not to be increased by reason of the duties being levied by the bushel. Sec. 7.

The Act is declared to commence from the time of its passing⁽¹⁾ and is to be cited by the short title of "The Customs Tariff Act, 1853." Sec. 8.

(1) Royal assent, 20th August, 1853.

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APPENDIX;

•
COMPRISING

THE CUSTOMS CONSOLIDATION ACT 1853,

WITH

THE SECTIONS OF OTHER ACTS
INCORPORATED THEREWITH

AND

THE CUSTOMS TARIFF ACT 1853.

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CUSTOMS CONSOLIDATION ACT.

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APPENDIX.

ANNO DECIMO SEXTO ET DECIMO SEPTIMO

VICTORIÆ REGINÆ.

CAP. CVII.

An Act to amend and consolidate the Laws relating to the Customs of the United Kingdom and of the Isle of Man, and certain Laws relating to Trade and Navigation and the British Possessions.

[20th August, 1853.]

WHEREAS it is expedient that the several Acts now in force for the Management and Regulation of Customs, the Prevention of Smuggling, the Encouragement of British Shipping and Navigation, the Warehousing of Goods, the granting of Drawbacks and Allowances of Customs, the Regulation of the Trade of the British Possessions abroad and of the Isle of Man, should be consolidated into One Act: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I.
*Appointment
of Officers,
Ports, &c.*

As to the Appointment of Officers of Customs, Ports, &c.

*Appointment of
Officers, &c.*

1. It shall be lawful for the Commissioners of the Treasury, or, under their authority, the Commissioners of Customs, to appoint proper persons for the management and collection of the

*Appointment
of officers,
Ports, &c.*

Salaries and
Securities.

Salaries, &c.
not subject to
Duties.

Superannuation
allowances not
assignable.

Persons em-
ployed on ser-
vice of the Cus-
toms to be
deemed Officers
for such
service.

Customs, and the performance of all duties connected therewith, under the control and direction of the Commissioners of Customs, and to grant to such persons such salaries or allowances, or to permit them to receive such emoluments for executing the duties of their respective offices, as may be proper, and to require of such persons such securities for their good conduct as the said Commissioners of the Customs shall deem necessary; and such persons shall hold their offices during the pleasure of the Commissioners of the Treasury or of the Commissioners of Customs; and all salaries or allowances granted to any officer or other person in the service of the Customs shall be paid without any deduction on account of any duties imposed by any Act of Parliament, unless expressly charged thereon; and when any sum of money shall have been or shall be granted annually or otherwise to any person who has been or shall have been employed in the service of the Customs as a superannuation allowance upon the retirement of such person from such service, or as a compensation for past services, it shall not be lawful for the grantee of such allowance or compensation to assign or dispose of the same to any person or persons whomsoever, and any such assignment or disposition shall be void to all intents and purposes, and shall not be enforced in any court of law or equity.

2. Every person employed on any duty or service relating to the Customs, Trade, or Navigation, either in the United Kingdom, the Channel Islands, or any of Her Majesty's Possessions abroad, by the orders or with the concurrence of the Commissioners of Customs (whether previously or subsequently expressed), shall be deemed to be the officer for that duty or service; and every Act required by law to be done by or with any particular officer nominated for such purpose, if done by or with any person appointed by the Commissioners of Customs to act for such particular officer, shall be deemed to be done by or with such particular officer; and every Act required by law to be done at any particular place within any port, if done at any place within such port appointed by the Commissioners of Customs for such purpose, shall be deemed to be done at the particular place so required by law; and all commissions, deputations, and appoint-

ments granted to any officers of the Customs in force at the commencement of this Act shall continue in force as if the same had been granted under the authority of this Act, and all Bonds or other securities which shall have been given by or for any such officers and their respective sureties for good conduct or otherwise shall remain in full force.

*Appointment
of officers,
ports, &c.*

Existing appointments and securities for good conduct to remain in force.

3. If any officer, clerk, or other person acting in any office or employment in or belonging to the Customs shall accept any fee, perquisite, or reward, whether pecuniary or otherwise, directly or indirectly, from any person (not being a person appointed to some office in the Customs) on account of anything done or omitted to be done by him in or in any way relating to his said office or employment, except such as he shall receive under permission of the Commissioners of the Treasury, such officer, clerk, or other person so offending shall, on proof thereof to the satisfaction of the Commissioners of Customs be dismissed from his office.⁽¹⁾

Officers taking fee or reward not authorised by law to be dismissed.

4. Every person who shall be appointed to any office or employment in the Customs, under the control and direction of the Commissioners of Customs, shall on his admission thereto make the following declaration :

Declaration on admission to office.

“ I A. B. do declare, That I will be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge and inspection in the service of Her Majesty's Customs ; and that I will not require, take, or receive any fee, perquisite, gratuity, or reward, whether pecuniary or of any sort or description whatever, either directly or indirectly, for any service, act, duty, matter, or thing done or performed or to be done or performed in the execution or discharge of any of the duties of my office or employment, on any account whatever, other than my salary and what is or shall be allowed me by law, or by any special order of the Commissioners of Her Majesty's Treasury or the Commissioners of Her Majesty's Customs for the time being.’

(1) Penalty on persons giving bribes, £200; and officers receiving, £500. Sec. 262.

*Appointment
of officers,
ports, &c.*

Hours of at-
tendance, and
division of
duties in those
hours.

Holidays

Officers of
Customs not to
serve in public
offices.

What shall be
deemed orders
&c., of Commis-
sioners of
Customs.

5. The Commissioners of the Treasury may, by their warrant, from time to time appoint the hours of general attendance of the Commissioners and officers of Customs, and of other persons in the Customs service, at their proper offices and places of employment; and the Commissioners of Customs may appoint the times during such hours at which any particular parts of the duties of any such officers and other persons shall be performed.⁽¹⁾

6. No day shall be kept as a public holiday by the Customs except every Christmas-day and Good Friday, and such other days as may be appointed to be kept as such by Her Majesty's proclamation, and, so far as regards Scotland, such days as shall be appointed to be so kept by authority of the General Assembly, and also such days as shall have been or may be appointed for the celebration of the birthdays of Her Majesty and of her successors, and such days shall be kept as public holidays by the officers and servants of the dock companies in the United Kingdom.

7. No Commissioner, officer, clerk, or other person acting in the management or collection of the Customs shall be compelled to serve in the militia, or on any jury or inquest, or to assume the office of a mayor or sheriff, or to act in any corporate, parochial, or other public office.

8. Every order, document, or instrument required by law to be under the hands of the Commissioners of Customs, but not required to be signed by two or more of them, being attested by the signature of any one of such Commissioners, and every order, document, or instrument required by any law to be under the hands or under the hands and seals of the Commissioners of Customs, being attested by the hands or the hands and seals of two or more of such Commissioners, shall be deemed to be an order, document, or instrument under the hands, or under the hands and seals, as the case may be, of the Commissioners of Customs;⁽²⁾ and all orders and regulations made by the Commissioners of Customs under any Act or Acts relating to the Customs, now repealed, shall remain in force until altered, revoked, or

⁽¹⁾ Hours for landing goods. Sec. 49.

⁽²⁾ Judicial proofs of orders. Sec. 308.

rescinded, or others made by them in lieu thereof, and all Acts done in pursuance of any such orders and regulations shall be and are hereby declared to be valid.⁽¹⁾

*Appointment
of officers,
ports, &c.*

As to the appointment of ports, quays, warehouses, sufferance wharfs, landing and boarding stations.

*Appointment
of ports.*

9. The Commissioners of the Treasury may, by their warrant appoint any port or sub-port in the United Kingdom, or in the Chanrel Islands, and declare the limits thereof, and appoint proper places within the same to be legal quays for the lading and unlading of goods, and declare the bounds and extent of any such quays, or annul the limits of any port, sub-port, haven, creek, or legal quay, already appointed or to be hereafter set out and appointed, and declare the same to be no longer a port, sub-port, haven, creek, or legal quay, or alter or vary the names, bounds, and limits thereof; and all ports, havens, and creeks, and the respective limits thereof, and all legal quays, appointed, set out, and existing as such at the time of the passing of this Act, shall continue to be such ports, havens, creeks, and quays until annulled, varied, or altered; and any port, haven, creek, or quay, or the limits thereof, now annulled or altered, shall continue so annulled or altered until otherwise varied or altered as aforesaid.

*Treasury may
appoint ports
and quays, and
alter or annul
the same.*

*Existing ports
&c., to continue.*

10. The Commissioners of the Treasury may, by their warrant, from time to time appoint the ports in the United Kingdom which shall be warehousing ports for the purposes of this Act, and, subject to their directions, the Commissioners of Customs may by their order from time to time approve and appoint warehouses or places of security in such ports,⁽²⁾ and direct in what different parts or divisions of such warehouses or places, and in what manner any goods, and what sort of goods, may and may only be warehoused, kept and secured without payment of duty upon the first entry thereof, or for exportation only, in cases where the same may be prohibited to be imported for home use, and may approve of any premises as bonded sugar houses for the refining of sugar for removal to the Isle of Man or for exportation, and may direct

*Treasury may
appoint ware-
housing ports.*

*Commissioners
may appoint
warehouses, &c.*

*and premises
for refining
sugar for expor-
tation, and ap-
prove security.*

(¹) General Orders to be printed annually. Sec. 356.

(²) Power to revoke or alter. Sec. 14.

*Appointment
of officers,
ports, &c.*

Commissioners
of Customs to
provide ware-
houses for
tobacco, and to
charge rent.

Warehouse-
keeper to give
general secu-
rity.

Existing ap-
pointments,
approvals, and
bonds to con-
tinue in force.

in what cases, and with what sureties, and to what amount security by bond shall be required in respect of any warehouse so approved or appointed as aforesaid, or in respect of any goods deposited therein, or for the security of the duties due thereon, or in respect of any bonded sugar house so approved as aforesaid, or in respect of any sugar removed thereto, or the due refinement and return thereof to the warehouse, the removal to the Isle of Man, or the exportation thereof, within such period as the Commissioners of Customs shall direct, or for security of the duties due on such sugar;⁽¹⁾ and the Commissioners of Customs may, out of the monies arising from duties of Customs, provide warehouses for the warehousing of tobacco at the ports into which tobacco may be legally imported, and may, for every package of tobacco so warehoused, charge the importer or proprietor of such tobacco any such sum or sums for warehouse rent as they may see fit, not exceeding what is now payable; and the Commissioners of Customs may also fix the amount of rent which shall be payable in respect of any goods deposited or secured in any of the Queen's warehouses; and all such sums shall be paid, received, and appropriated as duties of Customs.⁽²⁾

11. The proprietor or occupier of every warehouse (except existing warehouses of special security, in respect of which security by bond has heretofore been dispensed with), or some one on his behalf, shall give or procure to be given security by bond, with two sufficient sureties, or by two bonds each with one sufficient surety, or such other security as the Commissioners of the Treasury or of Customs may approve, for the payment of the full duties of importation on or for the due exportation of all such goods as shall at any time be warehoused therein; and no goods shall be warehoused in any such warehouse after the passing of this Act until such security shall have been given.⁽³⁾

12. All existing appointments and approvals of warehouses for the warehousing of goods and of bonded sugar houses, in respect

(1) Operative clauses. Secs. 107 and 108.

(2) What goods may be deposited in Queen's Warehouse. Secs. 52, 54, 64, 74 and 75.

(3) Customs Bonds valid. Sec. 195.

of which security shall have been given by the proprietor or occupier thereof as aforesaid, shall continue in force as if the same had been made under the authority of this Act, unless and until the same shall be revoked as hereinafter provided; and no bond shall after the passing of this Act, be required to be given by the importer of any goods on the warehousing thereof, but all existing bonds given in respect of any goods warehoused or entered to be warehoused in any warehouse prior to the passing of this Act shall continue in force as if given under this Act.

Appointment of officers, ports, &c.

—
Importer's bonds dispensed with.

18. The Commissioners of Customs may from time to time, by order under their hands, appoint stations or places for ships arriving at or departing from any port or place to bring to for the boarding or landing of officers of the Customs, and may also appoint places to be sufferance wharves for the lading and unlading of goods by sufferance, in such cases, under such restrictions, and in such manner as they shall see fit, and may also direct at what particular part or parts of any harbour, dock, quay or other place in any port, ships laden with tobacco or any particular cargo, shall moor and discharge such cargo; and the Commissioners of Customs, or the collector or comptroller of any port under their directions, may station officers on board any ship while within the limits of any port in the United Kingdom.⁽¹⁾

Commissioners may appoint stations and sufferance wharves, &c.,

and regulate discharge of cargo, and boarding of officers.

14. The Commissioners of the Treasury by their warrant, and the Commissioners of Customs by their order, may from time to time revoke any former warrant or any former order, or make any alteration in or addition to any former warrant or any former order made as aforesaid by them respectively.

Power to revoke or alter former warrants or orders.

As to the licensing of agents for the transaction of business relating to the entry and clearance of ships, goods, and baggage, and of lightermen for the carriage of goods to and from importing and exporting ships.

Licensing Agents.

15. The Commissioners of the Treasury may by their warrant appoint and declare in what ports or places in the United Kingdom

Treasury to appoint in what ports agents shall be licensed.

(1) Ships inwards to bring to, &c. Sec. 47. Ships outwards to bring to, &c. Sec. 148. Power to board ships inwards. Sec. 48. And outwards. Sec. 146.

*Appointment
of officers,
ports, &c.*

Existing ap-
pointments not
to be altered.

Commissioners
to grant
licences to
agents.

Bond to be
given for faith-
ful conduct.

persons acting as agents in the entry or clearance of any ships, or of any goods or baggage, or any business relating thereto, shall be required to be duly licensed for that purpose,⁽¹⁾ and may from time to time revoke such warrants or appointment, and make others in lieu thereof, when and as they may see fit; and such warrants, if they relate to ports or places in Great Britain, shall be published in the London Gazette, if to ports or places in Ireland in the Dublin Gazette, and if to ports and places in Great Britain and Ireland in both those Gazettes: Provided always, that the appointments already made as to London, Dublin, Dover, Folkestone, Southampton, and Shoreham shall continue as if such appointments had been made under this Act, until the same shall be revoked.

16. The Commissioners of Customs may and they are hereby authorized to grant licences, in such form and manner and to such persons as they shall think fit to act as agents for transacting business which shall relate to the entry or clearance of any ship, or of any goods or of any baggage, in any of the ports or places in respect of which such appointments as aforesaid now are or hereafter shall be made, so long as such appointments shall remain in force, and by order under their hands, may cancel or revoke any licence so granted to any such person for fraud or misconduct;⁽²⁾ a copy of such order stating the cause of dismissal shall be delivered to such person, or to his clerk or left at his usual place of abode or business, but such person shall be at liberty to appeal to the Commissioners of Customs in manner provided by sections thirty-three and thirty-four of this Act for an investigation and reconsideration of the case; and if no such appeal be made within three days after the delivery of a copy of such order, or if such order shall be confirmed, such licence shall be void; and the Commissioners of Customs on granting any such licence are hereby empowered to require bond to be given by every person to whom such licence shall be granted (not being one of the sworn brokers of the city of London, and acting as such

(¹) Power to grant licences. Sec. 16.

(²) Penalty for acting without licence £20. Sec. 71.

agent in the port of London), with one sufficient surety, in the sum of one thousand pounds, for the faithful and incorrupt conduct of such person and of his clerks, acting for him, both as regards the Customs and his employers; and all licences heretofore granted by the Commissioners of Customs to any persons to act as agents shall be valid until revoked, and all bonds taken for the faithful and incorrupt conduct of such persons shall remain in full force: Provided always, that any person or any persons in copartnership, may, with the approval of the Commissioners of Customs, appoint a clerk or servant to transact such business on his or their behalf, and the name, residence, and date of appointment of such clerk or servant shall thereupon be endorsed on the licence of such person or persons, and shall be signed by him or them in the presence of and attested by the collector or comptroller of Customs at the port for which such licence is granted, and all such appointment shall be recorded in a register to be kept at the Custom House for that purpose; and no person shall act as such clerk or servant unless so appointed, endorsed, and recorded, nor act for or on behalf of any other than the person or persons so appointing him;⁽¹⁾ and every such appointment may be revoked by the Commissioners of Customs at any time, by order under their hands.

*Appointment
of officers,
ports, &c.*

Agents may
appoint clerks
to act for them
under certain
conditions.

17. The Commissioners of Customs may order and direct in what ports or places in the United Kingdom, goods cleared for drawback or from the warehouse shall be carried or water-borne to be put on board any ship for exportation, or goods carried or water-borne from any importing ship to, or to be landed at any wharf, quay or other place, shall be so carried or water-borne only by persons authorised for that purpose by licence under the hands of the Commissioners of Customs, and may revoke any such orders or directions, or make others in lieu thereof, when and as they may deem expedient; and the Commissioners of Customs may grant such licences in such form and manner and to such persons as they may deem proper, and may revoke the same, when and as they shall think fit;⁽²⁾ and before granting any such licence,

Commissioners
may order in
what ports
Goods may be
carried or water
borne by
authorised persons.

Commissioners
may grant
licences and
require bonds.

(1) Penalty for acting without authority of proprietor £20. Sec. 71. Authority may be required. Sec. 72.

(2) Acting as lighterman without licence, penalty £20. Sec. 127.

*Appointment
of officers,
ports, &c.*

Existing li-
cences to con-
tinue in force.

the Commissioners may require such security by bond for the faithful and incorrupt conduct of such person as they shall deem necessary; and all such licences in force at the time of the commencement of this Act shall continue in force as if the same had been granted under the authority of this Act.

*Collection of
Duties, &c.*

Duties, draw-
backs, &c., to
be under the
management of
the Commis-
sioners ofcus-
toms.

Duties and
drawbacks to
be in British
currency, and
according to
imperial weight
and measure.

When new
duties of
Customs are
imposed in lieu
of former ones,
such former
ones are to
continue until
the new duties
become charge-
able, except in
certain cases.

Duties due be-
fore the passing
of this Act, to
be levied, &c.,
as if payable by
this Act.

*As to the Collection and Management of Duties of Customs,
Drawbacks and Allowances.*

18. All duties of Customs, or other duties under the management, collection or control of the Commissioners of Customs, drawbacks and allowances, now imposed and allowed, or which may hereafter be imposed or allowed by law, shall be under the management of the Commissioners of Customs for the time being, and shall be ascertained, raised, levied, collected, paid, recovered, allowed and applied or appropriated, under the provisions of the laws for the time being in force relating thereto;⁽¹⁾ and all duties and drawbacks imposed and allowed according to any specified quantity or any specified value, shall be deemed to apply in the same proportion, to any greater or less quantity or value, and shall be paid and received in every part of the United Kingdom in British currency, and according to imperial weights and measures.

19. In all cases where any new duties of Customs, or other duties under the management, collection or control of the Commissioners of Customs, are or may be imposed by any Act or Acts, in lieu of any former duties payable at the time of the passing of such Act or Acts, such former duties shall be and continue payable until such new duties imposed in lieu thereof shall become chargeable, save and except in cases where the Act or Acts imposing such new duties shall otherwise provide; and all monies arising from any duties of Customs, or any arrears thereof, on account of any goods whatever imported into or exported from the United Kingdom under any former Act, although computed under such former Act, and whether secured by bond or otherwise, shall be levied and appropriated in the same manner

(¹) Application of duties. Secs. 21 and 22. In Isle of Man. Sec. 353.

as if the same had been made payable by this Act, or any other Act in force for the time being; and all drawbacks or allowances payable under any former Act shall be paid or allowed under this or such other Act as may be in force for the time being.

*Appointment
of officers,
ports, &c.*

20. All goods whatsoever which now are or may be deposited in any warehouse or place of security under any Act of Parliament passed or to be passed for the warehousing of goods without payment of duty upon the first importation thereof, or which may be imported and on board any ship, shall, upon being entered for home consumption, be subject to such and the like duties as may at the time of passing such entry be due and payable on the like sort of goods under any Act or Acts passed for imposing any duty or duties of Customs which shall, or may be, in force at the time of passing such entry, save and except in cases where special provision shall be made in any such Act or Acts to the contrary.

Goods in warehouse, when entered for home consumption, to be chargeable with existing duties on like sort of goods.

As to the Receipt and Payment of Monies arising from the Duties of Customs, and the keeping of the Account thereof.

*Receipts and
Payments.*

21. All monies, bills, notes and drafts received by or coming to the hands of the Receiver-general of the Customs in England on account of the revenue of Customs in Great Britain, shall be paid by him into the hands of the Governor and Company of the Bank of England, and all other monies arising by the duties of Customs in Great Britain (the necessary charges of raising and accounting for the same excepted) shall from time to time be paid into the hands of the Governor and Company of the Bank of England, and shall be placed to an account to be raised in the books of the said Company, intituled "The Account of the Public Monies of the Receiver General of Customs," inserting the name of such Receiver General for the time being, and all monies arising from the duties of Customs in Ireland (the necessary charges of raising and accounting for the same and all other deductions allowed by law or by the orders and regulations of the Treasury for the time being excepted) shall be paid into the receipt of Her Majesty's Exchequer.⁽¹⁾

All monies, &c., received by receiver-general of Customs to be paid into the Bank of England

All monies arising in Ireland to be paid into the Exchequer.

(¹) Same as to Isle of Man. Sec.353.

*Appointment
of officers,
ports, &c.*

The Treasury
may make rules
for keeping the
accounts of the
revenue of the
Customs, and
for appropria-
tion thereof.

Responsibility
for monies, &c.

Bank to keep
an account, to
be returned to
the Customs,
for inspection
by the Comptroller-general.

22. The Commissioners of the Treasury may from time to time establish such rules and regulations as they may think necessary for keeping the accounts of the Receiver General of the Customs with the Governor and Company of the Bank of England, and of the Governor and Company of the Bank of England in relation thereto, and also for payment and appropriation of the monies arising from the Duties of Customs, and so brought to account for Her Majesty's Service, and from time to time to alter or revoke such rules and regulations, and make others in lieu thereof, and the rules and regulations now in force shall remain and continue to be acted upon until the same shall be so altered or revoked or others established by the said Commissioners of the Treasury in lieu thereof, and the said Receiver General, observing the rules and regulations so prescribed, shall not be answerable for any money, bills, notes, or drafts which he shall have so paid or caused to be paid into the Bank of England; and the Governor and Company of the Bank of England shall be answerable for all the monies, bills, notes and drafts which shall be actually received by them from and on account of such Receiver General as aforesaid. Provided always, that nothing in this Act contained shall be held in any way to alter or affect the provisions of an Act passed in the fourth and fifth years of the reign of King William the Fourth, chapter fifteen.

23. The Governor and Company of the Bank of England, or some person duly authorized in that behalf, shall daily, upon receiving any money, bills, notes, or drafts from such Receiver General of the Customs, make an entry of the money, bills, notes and drafts so received in a book to be provided by the Governor and Company of the Bank of England, which book shall be forthwith re-delivered to the persons making the payments for the Customs, for which monies, bills, notes and drafts the entry in the book hereinafter mentioned shall be a sufficient discharge; and such book shall be inspected daily after its return by the Comptroller General of the Customs or his clerk (such clerk being first duly authorized by him, and for whose conduct he shall be answerable), who shall compare the same with the account of monies, bills, notes and drafts received by the said

Receiver General, for the purpose of ascertaining that the Receiver General constantly pays into the Bank all the money, bills, notes and drafts, as required under the provisions of this Act; and any default which such Comptroller General or his clerk may discover in that behalf shall be immediately reported by him to the said Commissioners of Customs, who shall report the same, unless it shall appear to them to have arisen from mistake or inadvertence, to the said Commissioners of the Treasury.

*Appointment
of officers,
ports, &c.*

*Any default to
be reported to
the Treasury.*

24. The Governor and Company of the Bank of England shall not pay, or transfer, apply, or dispose of any part of the money, notes, bills of exchange or drafts which may be paid in and placed to the account of such Receiver General from such account, except in accordance with the rules and regulations for the time being of the Commissioners of the Treasury, unless any such notes, bills of exchange or drafts shall be required by the Solicitor of Customs for the purpose of taking out an extent for the security of the money for which the same shall have been given, in which case such notes, bills of exchange or drafts, or any of them, shall be delivered to such Solicitor or his clerk, on the order of the Commissioners of Customs for that purpose, and such delivery shall be entered in the book herein directed to be provided.

*Bank of Eng-
land not to dis-
pose of monies,
&c., except for
a specified
purpose.*

25. Every sum of money which shall be due in the Port of London, upon any debenture,⁽¹⁾ certificate, or other instrument for the payment of any money out of the duties of Customs shall be paid by the Receiver General of the Customs out of any money so paid into the Bank of England on account of the Receiver General of Customs, in accordance with the rules and regulations for the time being in respect thereof, and every such payment shall be allowed by the Commissioners for the better examining and auditing the public accounts of this Kingdom in the settling or auditing of the accounts of the Receiver General of the Customs; and when any such payment shall become due at any other port in the United Kingdom the same may be paid by the

*In London,
debentures and
orders to be
paid by receiver
general.*

*At any other
port by the
collector.*

(¹) Issue of debentures. Secs. 130 and 131. Payment in two years. Sec. 132.

*Appointment
of officers,
ports, &c.*

Time for
return of duties
overpaid ex-
tended to six
years.

Commissioners
of Customs may
close accounts
of collectors.

On the death or
removal of
receiver-general
the balance to
vest in his suc-
cessor.

Punishment for
forgery on
receiver-general
transportation
for life.

Collector at such port out of any of the monies in his hands arising from the duties of the Customs under the directions of the Commissioners of Customs; and as it is expedient to extend the period within which over-payments of duty may be returned, the Commissioners of Customs are hereby authorized, at any time within six years after the over-payment of any duties, on its being proved to their satisfaction that the same were over-paid in error, to return such duties; but no such return shall be made, nor any claim allowed, unless made and established within such period of six years.

26. The Commissioners of Customs shall and may finally settle and close the accounts of any Collectors or Receivers of any part of the revenue of the Customs, or other duties, under their management, notwithstanding an erroneous appropriation of any duties of Customs received by such Collectors or Receivers, and the said Commissioners are hereby empowered to correct such appropriation, in order to prevent the accounts of any such collectors or receivers from being kept open, and all such corrections shall be allowed by the Commissioners for auditing the public accounts in passing the general accounts of Customs.

27. Upon the death, resignation or removal of the present and of every other Receiver General of the Customs hereafter to be appointed, the balance of cash for which he shall at that time have credit on his account as such Receiver General with the Governor and Company of the Bank of England shall, as soon as a successor shall be appointed to the said office, vest in such successor, and until such successor shall be appointed, in such person or persons as shall for the time being be duly authorized to execute the duties of the said office, in trust for the service of the public, and be forthwith transferred, carried over and placed to the account of such successor or other person or persons as aforesaid, to be applied to the service accordingly.

28. If any person or persons shall knowingly and wilfully forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly and wilfully act or assist in forging or counterfeiting, the name or handwriting of any Receiver General of the Customs, or of any Comptroller General of the Customs, or

of any person acting for them respectively as aforesaid, to any draft, instrument or writing whatsoever, for or in order to the receiving or obtaining any of the money in the hands or custody of the Governor and Company of the Bank of England, on account of the Receiver General of the Customs, or shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting, any draft, instrument or writing in form of a draft made by such Receiver General or person as aforesaid, or shall utter or publish any such knowing the same to be forged and counterfeited, with an intention to defraud any person whomsoever, every such person or persons so offending, being thereof convicted, shall be declared and adjudged to be guilty of felony, and shall be transported beyond the seas for life.⁽¹⁾

*Appointment
of officers,
ports, &c.*

As to Disputes and Controversies between the Importer of Goods and the Officers of Customs as to the Duty due on such Goods.

Disputes between Importer and Officers.

29. If any dispute shall arise as to the proper rate of duty payable in respect of any goods imported into the United Kingdom, and admissible for home consumption, the importer or consignee, or his agent, shall deposit in the hands of the Collector of the Customs at the port of importation the amount of duty demanded by such Collector; and such deposit shall be deemed and taken to be the proper duty payable in respect of such goods, unless an action or suit shall be brought or commenced by the importer of such goods within three months from the time of making such deposit, in one of Her Majesty's courts of law at Westminster, Dublin or Edinburgh, against such Collector,⁽²⁾ for the purpose of ascertaining whether any and what amount of duty is due and payable upon such goods; and, upon payment of such deposit, and passing a proper entry for such goods, by the importer, consignee or agent, such collector shall thereupon cause the said goods to be delivered in virtue of such entry.

In case of dispute, importer to deposit the duty demanded.

On payment of such deposit, and passing entries for the goods, importer to have delivery.

30. Where such deposit shall have been made as aforesaid, the same shall be paid by the said collector to the receiver-general of

Deposits to be carried to Consolidated Fund.

(1) Minor forgeries, penalty £100. Sec. 198.

(2) Actions against officers in other cases. Secs. 313 to 322.

*Appointment
of officers,
ports, &c.*

If no action
brought within
the three
months, deposit
to be retained
as duties.

If action
brought, and
determined
against the
revenue, im-
porter to be
indemnified.

By whom costs
of suit payable.

Customs, to be by him carried to the consolidated fund of the United Kingdom of Great Britain and Ireland; and in case no action shall be brought within the time herein-before limited for that purpose, such deposit shall be retained and applied to the use of Her Majesty, in the same manner as if the same had been originally paid and received as the duty due and payable on such goods; and in case such action shall be so brought, and it shall thereupon be determined by due course of law that the duty so demanded and deposited was not the proper duty due and payable upon such goods, but that a less duty was payable thereon, then the difference between the sum so deposited and the duty so found to be due, or the whole sum so deposited, as the case may require, shall forthwith be returned to such importer, with interest thereon after the rate of five pounds per centum per annum for the period during which the sum so paid or returned shall have been so deposited; and such payment shall be accepted by such importer in satisfaction of all claims in respect of the importation of such goods and the duty payable thereon, and of all or any damages and expenses incident thereto, except costs of suit, as next hereinafter provided; that is to say, provided always, that the party to such action or suit in whose favour a verdict shall be given, shall be entitled to his costs of suit as between party and party against the other party to such action or suit, such costs to be taxed by the proper officer of the court in which such action shall be brought in the usual way; and if such verdict shall be given against the plaintiff in such action or suit, the costs so taxed as aforesaid shall be recoverable and recovered against the plaintiff in the same manner as damages and costs in an ordinary action or suit in such court are recoverable by law; but if such verdict shall be given against the collector as defendant in such suit, the costs so taxed as aforesaid shall be paid by the Commissioners of Customs out of any monies arising from the duties of Customs.⁽¹⁾

(¹) Costs generally. Sec. 263.

As to Complaints and Disputes between Merchants and others and the Officers of Customs, the public Investigation thereof, and Inquiries touching Matters relating to the Customs, and the conduct of Officers or others concerned therein.

Appointment of officers, ports, &c.
—

31. If in the port of London⁽¹⁾ any dispute shall arise between any masters or owners of ships, merchants, importers, consignees, shippers, or exporters of goods, or their agents, or licensed agents, and any officer of Customs, with reference to the seizure or detention of any ship or goods, or to any apparently accidental omission, inadvertence, or noncompliance with the laws or regulations relating to the Customs, or touching the withdrawal of agents' licences, it shall be lawful for the Commissioners to dispose of or determine such dispute in such manner as they may deem just

Disputes and inquiries in London.

32. If, upon consideration of the facts and circumstances out of which such dispute shall have arisen, the Commissioners of Customs shall be of opinion that any penalty or forfeiture has been incurred by any such master, owner, merchant, importer, consignee, shipper, exporter, or agent, the said Commissioners may, in case they shall be of opinion that the penalty ought to be remitted, remit and forego the same accordingly, or in case they shall be of opinion that a mitigated penalty should be imposed and enforced, mitigate any such penalty or forfeiture to such amount as they may deem a sufficient satisfaction for the breach of law or regulation complained of.⁽²⁾

Power to remit or mitigate penalties.

33. In case any such master, owner, merchant, importer, shipper, exporter, or agent shall feel himself aggrieved by the determination of the Commissioners of Customs in any of the cases aforesaid, or have any ground of complaint against any officer of Customs in respect of anything done or omitted to be done by such officer in or about the execution of his duty, the party so feeling himself aggrieved shall, upon an application in writing to the Commissioners of Customs, which application shall state the substance of his complaint, or the reasons of his dissatisfaction with such determination, be entitled to have

Appeal to open court.

⁽¹⁾ Disputes at outports. Sec. 37.

⁽²⁾ Power to mitigate in other cases. Sec. 243.

*Appointment
of officers,
ports, &c.*

the facts and circumstances of such complaint or determination inquired into by one of the said Commissioners, in the manner following.

Commissioner
to conduct public
inquiry.

84 Upon receipt of such application as aforesaid, the Commissioners of Customs shall depute one of such Commissioners to inquire into the subject matter of such application, for which purpose a suitable apartment shall be provided, to which the parties complaining and the parties complained against, and their agents and witnesses,⁽¹⁾ and all other persons interested or desirous of attending, shall have free access; and the Commissioner so deputed shall receive the statement of the complainant or his agent or attorney, and hear any reasons which he or they may advance in support of his complaint, and the said Commissioner shall take or cause to be taken any evidence on oath which the said complainant may offer and adduce in support of his complaint, and write down or cause to be written down and report the substance of such evidence in a narrative form, and his opinion thereon and on the arguments, if any, adduced on the hearing of the case, for the information of the said Commissioners, and in like manner the Commissioner so deputed as aforesaid shall take and write down, or cause to be taken down and written, and report, for the information of the said Commissioners of Customs, any evidence which may be offered in support of such determination of the Commissioners, or in case of a complaint against an officer, such exculpatory evidence as the officer complained against may offer or adduce; and the course of proceeding with respect to the taking of such evidence and the conduct of such inquiry shall be in as close conformity as the nature of such inquiry will admit with the practice adopted before justices on inquiries had before such justices.⁽²⁾

Commissioners
to prosecute or
decide.

35. The Commissioners of Customs, upon the evidence so reported to them, shall either determine to prosecute, if they deem it a proper case for prosecution, or decide the case upon such evidence, and make their order thereon accordingly, which order shall be communicated by a Commissioner in open Court either

(¹) Power to summon. Sec. 39.

(²) Power to keep order. Sec. 36.

on the same day or a future day to be appointed at the hearing for that purpose; and every order of the Commissioners of Customs, made upon consideration of the facts, circumstances, and evidence so reported by the Commissioner by whom such inquiry shall have been holden, shall, in case any penalty or mitigated penalty or forfeiture shall be adjudged by such order to be paid or enforced, be of equal force, validity, and effect as any conviction for penalties which any justice or justices is or are now empowered by law to make, and upon the production of any such order under the hands of any two or more of the Commissioners of Customs to any justice or justices of the peace it shall be lawful for such justice or justices to enforce such order, in the same manner and by the like authority as such justice or justices is or are now empowered to enforce orders under and by virtue of an Act passed in the eleventh and twelfth years of the reign of Her Majesty Queen Victoria, chapter forty-three, unless the party against whom such order shall have been made shall, within one week after the same shall have been communicated as aforesaid, give notice in writing to the Commissioners of Customs or to their Solicitor that he refuses to abide by such order, in which case the Commissioners of Customs may direct such proceedings thereon as they may see fit, or the party against whom such order shall have been made shall have the same remedy by action in any Court having jurisdiction, including the "Court of Requests of the City of London and the Liberties thereof," as if no such hearing or order had been made; ⁽¹⁾ provided always that if any such master, owner, importer, shipper, exporter, or agent (not wishing to resort to such appeal as hereinbefore provided) be desirous of stating his case personally to one of the Commissioners of Customs, he shall be at liberty to do so on attending at the Custom House during the sitting of the board on applying for that purpose.

*Appointment
of officers,
ports, &c.*

*Award may be
enforced.*

36. The Commissioner of Customs so deputed to inquire as aforesaid shall have and exercise, while engaged in the conduct of such inquiry, and to as full an extent as the same is now exercised by any justice or justices in sessions, all necessary powers and authority to enforce order and propriety of conduct.

*Power to keep
order.*

(1) Actions against officers. Secs. 313 to 322.

*Appointment
of officers,
ports, &c.*

Disputes and
inquiries at
outports.

37. If at any of the outports any dispute shall arise between any master or owner of ships, merchants, importers, consignees, shippers, or exporter of goods, or their agent or agents, and any officer of Customs, with reference to the class of cases hereinbefore enumerated as arising or occurring in the port of London, the like inquiry shall be holden, the like course of proceeding adopted, the like mode of taking evidence pursued, the like accommodation for the parties concerned provided, the like authorities for maintaining order given, and, as nearly as may be, the like matters in every respect done, as hereinbefore provided for inquiry into and conduct of similar proceedings in the port of London, save and except that the duty hereinbefore prescribed to be performed by one of the Commissioners of Customs deputed for that purpose shall be performed at such outports by the collector or comptroller or other officer of Customs deputed for that purpose.

Inquiries and
examinations
may be con-
ducted by Com-
missioners,
surveyors'
general, and
other officers of
Customs.

38. In any of the foregoing cases, or whenever it shall be necessary for the Commissioners of Customs or their officers to institute any inquiry to ascertain the truth or facts with respect to any complaint or matter relating to any business under their management or control or incident thereto, or the conduct of officers or persons employed therein, such inquiries shall and may be made or conducted by the Commissioners for the time being, or any one or more of them, or by any surveyor-general, inspector general, collector, or comptroller, or other officer of the Customs, or by such person or persons as the Commissioners of Customs shall direct and appoint for that purpose; and when upon any such inquiry proof on oath shall be required by the person so conducting the same, such person shall and may administer such oath to any person attending before him as aforesaid; and if any person so examined as a witness before such person shall be convicted of giving false evidence on his examination on oath before the person conducting such inquiry, every such person so convicted shall be deemed guilty of perjury, and shall be liable to the pains and penalties thereof.⁽¹⁾

Oath may be
administered.

Persons con-
victed of making
a false oath
deemed guilty
of perjury.

Power to sum-
mon witnesses.

39. Upon any such inquiry or examination it shall be lawful

(¹) False oaths in other cases. Sec. 311. And false answers. Sec. 198

for the Commissioners of Customs, or any one or more of them, *Appointment of officers, ports, &c.*
 or for any such surveyor-general, inspector-general, collector, comptroller, or other officer of the Customs, or person so authorised or directed by the Commissioners of Customs to conduct such inquiry or examination, to summon any person required as a witness to appear before the said Commissioners, inspector-general, collector, comptroller, surveyor-general, or other officer, or person authorised to conduct such inquiry or examination, as the case may be, to attend on the hearing thereof at the time and place to be specified in such summons, to give evidence upon oath of the truth of any facts appertaining to such inquiry, or any other matter touching or relating thereto; and every person so summoned, having his reasonable expenses for such attendance, if required, tendered to him at the time of service of such summons, who shall neglect or refuse to appear according to the exigency thereof, or who, having so appeared, shall refuse to take the oath, or shall refuse to give evidence, or to answer according to the best of his knowledge and belief any question when thereunto required, shall for every such default or offence forfeit the sum of twenty pounds.

40. The Commissioners of Customs shall from time to time make such rules and orders for the proper conduct of such inquiries *Regulations for conduct of inquiries.*
 as aforesaid as may be expedient, and as in their judgment shall be necessary or proper; and such rules and orders shall be observed on the conduct of such inquiries, until annulled or varied by the authority of the said Commissioners.

As to the importation, or prohibition, entry, examination, landing, and warehousing of goods. *II. Importation and Warehousing.*

41. It shall be lawful to import into the United Kingdom any goods which are not by this or any law in force at the time of importation thereof prohibited to be so imported,⁽¹⁾ and to warehouse under the laws in force for the warehousing of goods, except as hereinafter provided, in warehouses duly approved for the warehousing of goods without payment of duty on the first entry *Importation and prohibition.*

(¹) Prohibitions. Sec. 44.

*Importation
and
Warehousing.*
—

thereof, any goods subject to duties of Customs the importation and warehousing whereof is not prohibited by any law in force at the time of such importation :⁽¹⁾ Provided always, that the duties on the following goods, and on such other goods as the Commissioners of the Treasury may from time to time direct, shall be paid on the first importation thereof, and such goods shall not be warehoused either for home consumption or exportation; viz., corn, grain, meal, and flour, and wood goods from British Possessions.

*Time of impor-
tation of goods
and time of
arrival of ships
defined.*

42. If, upon the first levying or repealing of any duty, or the first permitting or prohibiting of any importation, or at any other time, or for any of the purposes of this or any Act relating to the Customs, it shall become necessary to determine the precise time at which an importation of any goods shall be deemed to have had effect, such time shall be deemed to be the time at which the ship importing such goods had actually come within the limits of the port at which such ship shall in due course be reported and such goods be discharged; and if any question shall arise upon the arrival of any ship in respect of any charge or allowance upon such ship, exclusive of cargo, the time of such arrival shall be deemed to be the time at which the report⁽²⁾ of such ship shall have been or ought to have been made.⁽³⁾

*Importation
direct.*

43. No goods shall be deemed to be imported from any particular place unless they be imported direct from such place, and shall have been there laden on board the importing ship, either as the first shipment of such goods, or after the same shall have been actually landed at such place.

*Prohibitions
and restrictions.*

44. If any goods enumerated or described in the following table of prohibitions and restrictions as "goods absolutely prohibited to be imported," shall be imported or brought into the United Kingdom, or if any goods enumerated or described in such table as "goods prohibited to be imported except in transit, and subject to such regulations and restrictions as the Commissioners of the Treasury may direct, and duly reported as goods in

⁽¹⁾ Approval of warehouses. Sec. 10.

⁽²⁾ Time of report. Sec. 50.

⁽³⁾ Exportation and departure. Sec. 149.

"transit accordingly," shall be imported into the United Kingdom except in transit, in accordance with such regulations and restrictions, and so reported as aforesaid, or if any goods enumerated or described in such table as "goods subject to certain restrictions on importation," shall be imported or brought into the United Kingdom contrary to the prohibitions or restrictions contained in such table in respect thereof, then and in every such case such goods shall be forfeited,⁽¹⁾ and shall be destroyed or otherwise disposed of as the Commissioners of Customs may direct.

*Importation
and
Warehousing.*
—

A TABLE OF PROHIBITIONS AND RESTRICTIONS INWARDS.

GOODS ABSOLUTELY PROHIBITED TO BE IMPORTED.

Books wherein the copyright shall be first subsisting, first composed or written or printed, in the United Kingdom, and printed or reprinted in any other country, as to which the proprietor of such copyright or his agent shall have given to the commissioners of Customs a notice in writing that such copyright subsists, such notice also stating when such copyright will expire.⁽²⁾

Coin, viz.—False money or counterfeit sterling.

Coin, silver, of the realm, or any money purporting to be such, not being of the established standard in weight or fineness.

Extracts, essences, or other concentrations of coffee, chicory, tea, or tobacco, or any admixture of the same.

Malt.

Indecent or obscene prints, paintings, books, cards, lithographic or other engravings, or any other indecent or obscene articles.

Snuff work.

Tobacco stalks stripped from the leaf, whether manufactured or not.

Tobacco stalk flour.

⁽¹⁾ See also Sec. 209. Liability of ship. Secs. 203, 212 and 213. Exceptions. Sec. 214. Persons concerned. Sec. 232.

⁽²⁾ Lists to be published. Sec. 46. In British Possessions. Sec. 160.

*Importation
and
Warehousing.*
—

GOODS PROHIBITED TO BE IMPORTED EXCEPT IN TRANSIT, AND SUBJECT TO SUCH REGULATIONS AND RESTRICTIONS AS THE COMMISSIONERS OF THE TREASURY MAY DIRECT, AND DULY REPORTED AS GOODS IN TRANSIT ACCORDINGLY.

Articles of foreign manufacture and any packages of such articles bearing any names, brands, or marks being or purporting to be the names, brands, or marks of manufacturers resident in the United Kingdom.⁽¹⁾

Clocks and watches of any metal impressed with any mark or stamp appearing to be or to represent any legal British assay, mark, or stamp, or purporting by any mark or appearance to be of the manufacture of the United Kingdom.

Parts of articles; viz., any distinct or separate part of any article not accompanied by the other part or all the other parts of such article so as to be complete and perfect, if such article be subject to duty according to the value thereof.

GOODS PROHIBITED TO BE IMPORTED, EXCEPT SUBJECT TO THE
RESTRICTIONS ON IMPORTATION HEREIN CONTAINED.

Infected cattle, sheep, or other animals, and hides, skins, horns, hoofs, or any other part of cattle or other animals, which her Majesty may, by Order in Council,⁽²⁾ prohibit in order to prevent any contagious distemper.

Silk, manufactures of silk, being the manufactures of Europe, unless into the ports of London, Liverpool, Hull, Southampton, Leith or Dublin, or ports appointed by the Commissioners of Customs, or into the ports of Dover or Folkestone direct from Calais or Boulogne, and unless in ships of fifty tons burden or upwards.

Spirits (not being perfumed or medicinal spirits), unless in ships, of fifty tons burden at least, and in casks or other vessels capable of containing liquids, each of such casks or other vessels being of the size or content of twenty gallons at the least, and duly reported, or in glass bottles or stone bottles not exceeding

⁽¹⁾ In British Possessions. Sec. 161. Imports bearing the names of known British manufacturers, and imported by them admitted. G.O. 177.

⁽²⁾ See Order in Council, 4th Sept., 1848.

the sizes of three-pint bottles, and being really part of the cargo of the importing ship, and duly reported.⁽¹⁾

*Importation
and
Warehousing.*
—

Tobacco and snuff from the East Indies, and tobacco from the Turkish dominions, including Egypt, unless imported direct from any of those places in packages containing not less than one hundred pounds net weight each.

Negrohead tobacco, and also snuff being the produce of the United States of America, unless in hogsheads, casks, chests, or cases containing not less than two hundred pounds net weight each, or unless imported direct from the said United States in packages containing not less than one hundred and fifty pounds net weight each.

Tobacco from Malta, and tobacco the produce of Porto Rico, Mexico, South America, St. Domingo, Cuba, the British Possessions in America, and the West Coast of Africa, unless in hogsheads, casks, chests, or cases containing not less than two hundred pounds net weight each, or unless imported direct from those places or from the United States of America in packages containing not less than eighty pounds net weight each.

Tobacco and snuff, the produce of the Philippine Islands, unless in hogsheads, casks, chests, or cases, containing not less than two hundred pounds net weight each, or unless such tobacco or snuff be imported from Manilla direct, in bales or packages containing not less than two hundred pounds net weight each.

Tobacco and snuff of or from any other country or place not before enumerated,⁽²⁾ unless in hogsheads, casks, chests, or cases containing not less than two hundred pounds net weight each.

Cigars, unless in packages containing not less than one hundred pounds net weight each.

Cigarillos or cigarettos, unless in packages containing not less than seventy-five pounds net weight each.

Tobacco, not being cigars, cigarillos, or cigarettos and snuff, separated or divided in any manner within any package in which the same may by the foregoing table be imported, except tobacco from the Dominions of the Turkish Empire, or from

(1) Channel Islands. Sec. 192.

(2) Tobacco from Greece, in 100lb. cases. T.O. 29th Oct., 1853.

<i>Importation and Warehousing.</i>	<p>Egypt, in outer packages containing not less than one hundred pounds net weight each.</p> <p>Tobacco, snuff, cigars, cigarillos, or cigarettos of any kind, or from any country or place whatever, whether herein-before enumerated as especially restricted or not, unless in ships of not less than one hundred and twenty tons burden,⁽¹⁾ and imported into such ports only as are or may be approved of by the Commissioners of Customs.</p>
Arms, &c., may be prohibited.	<p>45. The importation of arms, ammunition, gunpowder, or any other goods may be prohibited by proclamation or order in Council.⁽²⁾</p>
Printed lists of prohibited books to be exposed at Custom Houses.	<p>46. The Commissioners of Customs shall cause to be made, and to be publicly exposed at the several ports in the United Kingdom and in Her Majesty's possessions abroad, printed lists of all books wherein the copyright shall be subsisting, and as to which the proprietor of such copyright, or his agent, shall have given notice in writing to the said Commissioners that such copyright exists, stating in such notice when such copyright expires.⁽³⁾</p>
<p><i>Vessels inwards.</i></p> <p>Ship to come quickly to place of unloading, and bring to at the stations for boarding officers.</p>	<p>47 If any ship coming into the United Kingdom or into the Channel Islands shall not come as quickly up to the proper place of mooring or unloading as the nature of the port will admit, without touching at any other place, and in proceeding to such proper place shall not bring to at the stations⁽⁴⁾ appointed by the Commissioners of Customs for the boarding of ships by the officers of the Customs, or if after arrival at such place such ship shall remove from such place, except directly to some other proper place of mooring or unloading, and with the knowledge of the proper officer of the Customs, or if the master of any ship on board of which any officer is stationed neglect or refuse to provide every such officer sufficient room under the deck in some part of the forecastle or steerage for his bed or hammock, the master of such vessel shall forfeit the sum of twenty pounds.</p>
Accommodation of officers on board.	
Penalty £20.	
Officers to board ships.	<p>48. The proper officers of the Customs may board⁽⁵⁾ any ship</p>

(1) Channel Islands. Sec. 193.

(2) Prohibitions outwards. Sec. 150.

(3) British Possessions. Sec. 160.

(4) Appointment of stations. Sec. 13.

(5) Outwards. Secs. 146, 219 and 229. Coastwise. Sec. 158. British Possessions. Sec. 181.

arriving at any Port in the United Kingdom or the Channel Islands, and freely stay on board until all the goods laden therein shall be duly delivered from the same, and shall have free access to every part of the ship, with power to fasten down hatchways or entrances to the hold, and to mark any goods before landing, and to lock up, seal, mark, or otherwise secure any goods on board such ship; and if any place or any box or chest be locked, and the keys be withheld, such officers, if they be of a degree superior to that of tidewaiter, may open any such place, box, or chest in the best manner in their power, and if they be tidewaiters, or only of that degree, they shall send for their superior officer, who may open or cause to be opened any such place, box, or chest in the best manner in his power; and if any goods be found concealed on board any such ship they shall be forfeited; and if the officers shall place any lock, mark, or seal upon any goods on board, and such lock, mark, or seal, be wilfully opened, altered, or broken before due delivery of such goods, or if any of such goods be secretly conveyed away, or if the hatchways or entrances to the hold, after having been fastened down by the officer, be opened, the master of such ship shall forfeit the sum of one hundred pounds; and if the proper officer of the Customs shall place any lock, mark, or seal upon any stores on board any ship or vessel arriving in the United Kingdom, and such lock, mark, or seal be wilfully opened, altered, or broken, or if any such stores be secretly conveyed away, either while the ship remains in the port at which she shall have so arrived, or before she shall have arrived at any other port in the United Kingdom to which she may then be about to proceed, the master of such ship shall forfeit the sum of twenty pounds.⁽¹⁾

*Importation
and
Warehousing.*

To have free
access to all
parts.

May seal or
secure goods
and open locks.

Goods con-
cealed, forfeited.

If seal, &c.,
broken, master
to forfeit 100l.

Officers may put
seals upon stores
inwards.

If such seals be
broken, or the
stores secretly
conveyed away,
master to forfeit
20l.

49. No goods, except diamonds, bullion, lobsters, and fresh fish of British-taking and imported in British ships, which may be landed without report or entry, shall be unshipped from any ship arriving from parts beyond the seas, or be landed or put on shore, on Sundays or holidays, nor shall they be so unshipped, landed, or put on shore on any other days, except between the hours of eight o'clock in the morning and four o'clock in the

Time and place
of landing goods
inwards.

(1) Stores outwards, Sec. 147.

*Importation
and
Warehousing.*

Goods unshipped
contrary to regu-
lations, for-
feited.

Goods not forth-
with removed
and landed, for-
feited.

Report, &c.

Master to report
within twenty-
four hours after
arrival.

afternoon from the first day of March until the first day of November, and between the hours of nine o'clock in the morning and four o'clock in the afternoon from the first day of November until the first day of March, or during such other hours as may be appointed by the Commissioners of Customs; ⁽¹⁾ nor shall any goods be unshipped or landed unless in the presence or with the authority of the proper officer of the Customs, nor shall they be so landed except at some legal quay, wharf, or other place duly appointed for the landing of goods, nor shall any such goods after having been unshipped, or put into any boat or craft to be landed, be transhipped or removed into any other boat or craft previously to their being landed without the permission of the proper officer of the Customs; and if any such goods shall be unshipped, landed, transhipped, or removed contrary hereto the same shall be forfeited, ⁽²⁾ and if any goods shall be unshipped or removed from any importing ship for the purpose of being landed after due entry thereof, such goods shall be forthwith removed to and landed at the wharf, quay, or other place at which the same are intended to be landed; and if such goods are not so removed and landed the same shall be forfeited, together with the barge, lighter, boat, or other vessel employed in removing the same.

As to the Report of the Cargo of Merchant Ships, and of Ships in Commission bringing Merchandise from parts beyond the Seas.

50. The master of every ship, whether laden or in ballast, shall within twenty-four hours after arrival from parts beyond the seas at any port in the United Kingdom, and before bulk be broken, make due report ⁽³⁾ of such ship in the form following or to the same effect, and containing the several particulars indicated or required thereby; and if the cargo of such ship shall have been laden at several places shall state the names of those places in Column 1, in the order of time in which the same were laden opposite to the particulars of the goods so laden.

⁽¹⁾ General attendance. Sec. 5.

⁽²⁾ Persons concerned. Sec. 233.

⁽³⁾ The Collector must require the master before report to make declaration before the person appointed by the Post Master General of the delivery of all letters at the Post Office under 3 and 4 Wm. IV. c. 36. The officers of Customs should also attend to the requirements of the Alien Act 6 and 7 Wm. IV. c. 11. Secs. 2, 3, 4, 5, 6, 8 and 11.

Port of REPORT. (1)						Importation and Warehousing.
Ship's Name.	Tonnage	British or Foreign; if British, Port of Registry; if Foreign, Country to which she belongs.	No. of Crew. (2)		Name of Master, and whether a British or Foreign Subject.	Port or Place from whence arrived.
			British Seamen	Foreign Seamen		
						Form of report.
						Particulars relating to ship.
<i>Here state the Particulars according to the above Headings.</i>						
Total.						

CARGO.

1.	2.	3.	4.	5.	6.	7.
Name or Names of Places where laden in order of Time.	Marks.	No.	Packages and Descriptions of Goods, Particulars of Goods stowed loose, and general Denomination of Contents of each package of Tobacco Cigars, or Snuff intended to be imported at this Port.	Name of Consignee.	Particulars of Packages and Goods (if any) for any other Port in the United Kingdom.	Goods (if any) to be transhipped, or to remain on board for Exportation.
						Particulars of Cargo (if any).
<i>Here state the Particulars according to the above Headings, or if in Ballast, state "in Ballast only."</i>						If "in ballast," to be so stated.

STORES.

Surplus Stores remaining on board, viz., { Particulars of stores, &c.

Number of Alien Passengers (2) (if any)

Pilots Names

At what Station Ship lying

Agents's Name and Address

I declare that the Entry above written is a just report of my ship and Declaration of her lading, and that the particulars therein inserted are true to the best master. of my knowledge, and that I have not broken bulk or delivered any goods out of my said ship since her departure from , the last foreign place of loading, (except, if so, at , stating where.)

Signed and declared this (Signed)

Master.

Day of

In presence of

(Countersigned)

Collr. or Contr.

(1) False Report, penalty. Sec. 61. (2) 16 and 17 Vict. c. 131. Sec. 31.

(3) Alien Act 6 and 7 Wm. IV. c. 11. Sec. 2. And vide Secs. 3, 4 and 5 of that Act.

*Importation
and
Warehousing.*

On failure,
master to forfeit
100*l*.

Commissioned
ships, British or
foreign, having
goods on board,
person in charge
to deliver an
account, or for-
feit 100*l*.

Such ships
liable to search.

Master to de-
liver bills of
lading and
answer ques-
tions.

51. If such master shall wilfully fail to make such report according to the particulars herein-before set forth, so far as the same are applicable to such ship, cargo, and voyage, or if the particulars or any of them contained in such report be false, such master shall forfeit the sum of one hundred pounds.⁽¹⁾

52. The captain, master, purser, or other person having the charge of any ship (having commission from Her Majesty, or from any foreign state) having on board any goods laden in parts beyond the seas shall on arrival at any port in the United Kingdom, and before any part of such goods be taken out of such ship, or when called upon so to do by any officer of the Customs, deliver an account in writing under his hand to the best of his knowledge of the quality and quantity of every package or parcel of such goods, and of the marks and numbers thereon, and of the names of the respective shippers and consignees of the same, and shall make and subscribe a declaration at the foot of such account declaring to the truth thereof, and shall also truly answer to the collector or comptroller such questions concerning such goods as shall be required of him, and on failure thereof such captain, master, purser, or other person shall forfeit the sum of one hundred pounds;⁽²⁾ and all such ships shall be liable to such searches as merchant ships are liable to, and the officers of the Customs may freely enter and go on board all such ships, and bring from thence on shore into the Queen's warehouse any goods found on board any such ship as aforesaid, subject nevertheless to such regulations in respect of ships of war belonging to Her Majesty as shall from time to time be directed in that respect by the Commissioners of Her Majesty's Treasury.⁽³⁾

53. The master of every ship arriving from parts beyond the seas shall at the time of making such report deliver to the collector or comptroller, if required, the bill of lading, or a copy thereof, for every part of the cargo laden on board, and shall answer all such questions⁽⁴⁾ relating to the ship, cargo, crew, and voyage as shall be put to him by such collector or comptroller: and in case of failure or refusal to answer such questions or answer truly, or to produce any such bill of lading or copy, or if

(1) British Possessions. Sec. 164.

(2) Sec. 198.

(3) Detentions on Her Majesty's ships. Sec. 237.

(4) Sec. 198.

any such bill of lading or copy shall be false, or if any bill of lading be uttered or produced by any master, and the goods expressed therein shall not have been bonâ fide shipped on board such ship, or if any bill of lading uttered or produced by any master shall not have been signed by him, or any such copy shall not have been received or made by him, previously to his leaving the place where the goods expressed in such bill of lading or copy were shipped, or if after the arrival of any ship within four leagues of the coast of the United Kingdom bulk shall be broken, or any alteration made in the stowage of the cargo of such ship so as to facilitate the unlading of any part of such cargo, or if any part be staved, destroyed, or thrown overboard, or any package be opened, unless accounted for to the satisfaction of the Commissioners of Customs, in every such case such master shall forfeit the sum of one hundred pounds.⁽¹⁾

*Importation
and
Warehousing.*

Bulk not to be
broken or stow-
age altered.

Penalty 100*l.*

54. If the contents of any package intended for exportation in the same ship shall be reported by the master as being unknown to him, the Officers of the Customs may open and examine such package on board, or bring the same to the Queen's warehouse for that purpose, and if there be found in such package any goods which are prohibited to be imported such goods shall be forfeited, unless the Commissioners of Customs shall permit them to be exported.⁽²⁾

Packages re-
ported "Con-
tents unknown,"
may be opened
and examined.

Prohibited goods
forfeited.

As to the Entry of dutiable Goods to be delivered for Home Consumption on the landing thereof from the importing Ship.

*Entry of dutiable
Goods.*

55. The importer of any goods liable to duties of Customs and intended to be delivered for home use on the landing thereof from the importing ship, or his agent, shall, before unshipment thereof, make perfect entry of such goods⁽³⁾ by delivering to the collector or comptroller a bill of entry thereof⁽⁴⁾ in the form following or to the same effect, and containing the several particulars indicated in or required thereby.⁽⁵⁾

*Entry for home
consumption.*

⁽¹⁾ Liability of ship. Sec. 216. Persons on board. Sec. 235.

⁽²⁾ Disposal of goods. Sec. 44. ⁽³⁾ Secs. 69 and 209.

⁽⁴⁾ Duplicates required. Sec. 66. And by Excise Act 11 and 12 Vict. c. 122, sec. 26, which substitutes certificates for permits on delivery of spirits and tobacco for home use.

⁽⁵⁾ Goods removed without Entry. Sec. 69. Time of Entry. Sec. 74.

ENTRY.

*Importation
and
Warehousing.*

Port of (Name of Port of Importation).

Whether Prime or Post, and if Post, date of Prime Entry

Importer's Name

Form of entry
for payment of
duty on goods at
landing.

Wharf, Dock, or Station.	Ship's Name.	Whether British or Foreign Ship ; if Foreign, the Country.	Master's Name.	Port or Place from whence imported.
Here state the particulars according to the above headings.				

Marks.	Numbers.	Number of Packages Quantities and Descriptions of Goods as charged in Table of Duties.	If charged at value, Value to be stated in words at length.
Here state the particulars according to the above headings. (1)			

Total amount of duty payable } £ s. d.
on this entry

Dated this

Day of

18

(Signed)

Importer or Agent.

Declaration of
importer or
agent.

I (Name of importer or agent), of (place of abode) do hereby declare that I am (the importer or agent duly authorised by the importer) of the goods contained in this bill of entry, and that I enter the same goods, therein stated as goods charged at value, at the sum of (money in words at length).

Witness my hand the

Day of

18

(Signed)

Importer or Agent.

(1) Entry not valid if goods improperly described. Sec. 68.

And the particulars in such entry shall correspond with the particulars given of the same goods and packages in the report of the ship, and in any certificate of origin or other document, where any such is required,⁽¹⁾ by which the importation or entry of such goods is authorized, or upon which the importer is entitled to any benefit by the distinction thereof, or otherwise, and whenever the value of any goods is required to be stated in the entry, the importer or his agent shall subscribe a declaration of the truth of such value in the form set forth at the foot of such entry.⁽²⁾

*Importation
and
Warehousing.*

Particulars in
entry to corres-
pond with
report.

56. The importer or his agent shall immediately upon the entry of any goods entered by him to be delivered for home use pay down any duties which may be payable upon the goods mentioned in such bill of entry, if in London to the receiver general, and if at any of the outports to the collector or other person authorized by the Commissioners of Customs to receive the same: and such bill of entry, when signed by the collector or other such person, shall be transmitted to the landing waiter, and be his warrant for the landing and delivery of such goods.

*Payment of
duties.*

*Warrant for
delivery.*

57. If upon the examination of any goods entered for duty which are chargeable with duty upon the value thereof it shall appear to the officers of Customs that such goods are not valued according to the true value thereof, or that they are properly chargeable with a higher rate or amount of duty than that to which they would be subject according to the value thereof as described in the entry, it shall be lawful for such officers to detain the same, in which case they shall forthwith give notice in writing to the person entering the same of the detention of such goods, and of the value thereof as estimated by them, either by delivering such notice personally or by transmitting the same by post to such person, addressed to him at his place of abode as stated in his entry; and the Commissioners of Customs shall, within seven days after the detention of such goods, determine either to deliver such goods on the entry of such person, or to retain the same for the use of the Crown, in which latter case they shall cause the value at which the goods were so entered, together with an addi-

*Detention of
goods for under
value.*

*Service of notice
in case of.*

(1) Certificates required. Secs. 77 to 84. Mode of obtaining certificates. Secs. 176 to 180.

(2) False declaration. Sec. 198.

*Importation
and
Warehousing.*

In case of sale
of goods, how
proceeds to be
applied.

tion of five per cent. and the duties already paid on such entry to be paid to the person entering the same in full satisfaction for such goods, or may permit such person on his application for that purpose to amend such entry at such value and on such terms as they may direct; and if the Commissioners shall retain such goods they shall and may dispose of them for the benefit of the Crown, and if the proceeds arising therefrom in case of sale shall exceed the sums so paid and all charges incurred by the Crown, one moiety of such surplus shall be paid to a separate fund at the disposal of the Commissioners of Customs, and be distributed by them at such periods and in such proportions to or amongst such meritorious officers as the Commissioners of Customs shall select as most deserving, and the other moiety shall be accounted for, paid, and carried to account as duties of Customs under the direction of the Commissioners of Customs.

As to the Entry of goods intended to be warehoused without payment of Duty on first entry thereof.

Entry for the
warehouse.

Particulars of
entry.

Warrant for
warehousing.

Goods entered
for warehouse
may upon
further entry
be delivered for
home use or
exportation.

58. The importer of any goods intended to be warehoused without payment of duty on the first entry thereof, or his agent, shall deliver to the collector or comptroller a bill of entry⁽¹⁾ of such goods in the same manner and form and containing the same particulars as are hereinbefore required on the entry of goods to be delivered for home use on the landing thereof⁽²⁾ as far as the same shall be applicable, and the name and description of the warehouse in which such goods are intended to be warehoused, and the name of the person in whose name they are to be so warehoused; and such bill of entry, when signed by the collector or comptroller, shall be transmitted to the proper officer of Customs, and be the warrant for the due warehousing of such goods.⁽³⁾

59. If after any goods shall have been duly entered and landed to be warehoused, though not actually deposited in the warehouse, the importer shall further duly enter the same, or any part thereof for home use or for exportation, the same may be delivered and taken for home use or exportation, as the case may be.

⁽¹⁾ Duplicates required. Sec. 66. Forfeiture. Sec. 209. ⁽²⁾ Sec. 55.

⁽³⁾ Sec. 86. Removed under Bond. Secs. 100 and 101.

As to the entry of goods free of duty.

60. The importer of any goods not subject to duties of Customs, or his agent, shall deliver to the collector or comptroller a bill of entry of such goods⁽¹⁾ in the same manner and form and containing the same particulars as hereinbefore required on the entry of dutiable goods,⁽²⁾ so far as the same is applicable, which entry, so far as regards the goods, shall be a transcript of the report, and shall therein describe such goods according to the terms upon which such goods are free of duty, and the value of such goods as shall have been previously chargeable with duty at value; and such bill of entry, when signed by the collector or comptroller, shall be transmitted to the proper officer, and be his warrant for the delivery of the goods mentioned therein; and the importer, owner, or consignee of such goods, or his agent, shall, within fourteen days after the entry and landing thereof, deliver to the collector, comptroller, or other proper officer of Customs a full and true account⁽³⁾ of the goods so landed; provided, that at Liverpool, and with the sanction of the Commissioners of Customs at any other port where the docks, quays, and wharfs shall in like manner be wholly or principally under the control and management of one and the same corporate body, the owner, master, or consignee of the importing ship, or his agent, shall sign and leave with the collector of the Customs, within fourteen days next after the final discharge of such goods, a full and accurate list thereof, stating the quantities and distinguishing the weight and contents by measurement of such goods, if any, comprised therein, as shall be chargeable by weight or by measurement for the freight payable thereon, and the names of the consignees (according to the bills of lading), or the names of the persons actually paying the freight for the same; and on failure to leave such list, such owner, master, consignee, or agent shall forfeit the sum of twenty pounds.

*Importation
and
Warehousing.*

*Entry of free
Goods.*

*Particulars of
entry.*

*Warrant for
delivery.*

*Account of free
goods.*

*As to the entry of goods landed for examination by bill of sight
and perfecting entry thereof.*

*Entry by bill of
sight.*

61. The importer of any goods or his agent, if unable for want of full information to make a perfect entry of such goods, on making

*Entry by bill of
sight when goods
not known.*

⁽¹⁾ Duplicates required. Sec. 66.

⁽²⁾ Sec. 55.

⁽³⁾ The manner in which the accounts of free goods are to be returned, whether by weight, value, &c., is shown by italics in the Tariff.

**Importation
and
Warehousing.**

and subscribing a declaration to that effect before the collector or comptroller, may make an entry by bill of sight for the packages or parcels of such goods in the form following, or to the same effect, and containing the several particulars indicated or required thereby.

BILL OF SIGHT.

Form of entry
by bill of sight.

Port of (<i>Name of port of importation</i>). Importer (<i>Name of importer</i>).					
Wharf, Dock, or Station.	Ship's Name.	Whether British or Foreign; if Foreign, the Country.	Master's Name.	Port or Place from whence imported.	Name of Importer or of his Agent.
<i>Here state the particulars according to the above headings.</i>					

Marks.	Numbers.	Number of Packages, with the best Description of the Goods the Importer is able to give.
<i>Here state the particulars according to the above headings.</i>		

I, _____ the importer (or agent to _____ the importer) of the goods above mentioned, do hereby declare that I have not (*if importer*), or that to the best of my knowledge he has not (*if agent*) received sufficient invoice, bill of lading, or other advice from whence the quality, quantity, or value of the goods above mentioned can be ascertained. Dated this _____ Day of _____ 18__

(Signed)

(Signed)

Importer, or his agent.

Coll. or Comptr. _____

62. Such entry being delivered to the collector or comptroller, and signed by him, shall be the warrant for provisionally landing such goods to be examined by such importer in presence of the proper officers, and the importer shall within three days after the landing thereof, and before the same shall be delivered, make full and perfect entry thereof by endorsing upon such bill of sight such particulars of such goods as are hereinbefore required on making perfect entry of goods, whether for payment of duty, or for warehousing, or for delivery free of duty, as the case may be,⁽¹⁾ and to such endorsement he shall affix the date thereof, together with his signature and place of abode, and such endorsement, when signed by the collector or comptroller, shall be taken as the perfect entry for such goods.

*Importation
and
Warehousing.*

Warrant for
landing.

Before delivery
importer to
make perfect
entry.

63. Where an entry for the landing and examination of goods for delivery on payment of duty shall be made by bill of sight, such goods shall not be delivered until perfect entry thereof shall have been made and the duties due thereon paid, unless the importer or his agent shall have deposited with the proper officer of the Customs a sum of money sufficient in amount to cover the duties payable thereon; and if the sum deposited on a bill of sight shall not be equal in amount to the duties payable upon all the goods contained in any single package landed or examined thereby, no part shall be delivered until a perfect entry or entries is or are made, and the duties paid or deposited for the whole of the goods contained in such package.

Goods entered
by bill of sight
not to be de-
livered, unless
duty is paid or
deposited.

64. If full and perfect entry of any goods landed by bill of sight as aforesaid be not made within three days after the landing thereof, such goods shall be taken to the Queen's warehouse by the officers of the Customs;⁽²⁾ and if the importer shall not within one month after such landing make perfect entry or entries of such goods, and pay the duties thereon or on such parts as can be entered for home use, together with the charges of removal and of warehouse rent, such goods shall be sold for the payment of such duties and charges, (or for exportation if they be such as cannot be entered for home use or shall not be worth the duties,) and the

Goods to be
taken to Queen's
warehouse in de-
fault of perfect
entry within
three days, and
sold in default
of such entry
within one
month after
landing.

(¹) Secs. 55, 58 and 60.

(²) Rent in Queen's Warehouse. Sec. 10.

Importation and Warehousing. — overplus, if any, after payment of such duties and charges, or the charges if sold for exportation, shall be paid to the importer or proprietor thereof: Provided always, that when entry be at any time made as and for a full and perfect entry for any goods provisionally landed by bill of sight or deposited in the Queen's warehouse, as aforesaid, if such entry shall not be made in manner herein required for the due landing of the goods, the same shall be deemed to be goods landed without entry, and shall be forfeited.

If entry not in manner required by law, goods forfeited.

As to the entry of goods re-imported into the United Kingdom as foreign, or by bill of store.

Re-importation of British goods. 65. All British goods re-imported into the United Kingdom shall be deemed and taken to be and be entered as foreign, and shall be liable to the same duties, rules, regulations, and restrictions as such goods, if foreign, would be liable to on the first importation thereof, unless the same shall be re-imported within ten years after the exportation thereof, and it shall be proved to the satisfaction of the Commissioners of Customs that the property in such goods has continued and still remains in the person by whom or on whose account the same have been exported, in which case the same may be entered as British goods, by bill of store containing such particulars and in such form and manner as the said Commissioners may direct: Provided always, that the following goods shall, on re-importation be deemed and taken to be foreign goods, namely, corn, grain, meal, flour, and hops, and also all goods for which any drawback of Excise shall have been received on exportation, unless by special permission of the Commissioners of Customs, and on repayment of such drawback, and also all goods for which a bill of store cannot be issued in manner directed by the said Commissioners, except remnants of British goods, with permission of the Commissioners of Customs.⁽¹⁾

Entry by bill of store.

Exceptions.

(1) *Vide* Commentary on this Sec.

As to entries of goods in any of the foregoing cases.

*Importation
and*

Warehousing.

Entries generally.

66. Upon the entry of any goods, the importer, his agent, or the consignee of the ship, as the case may be, shall deliver two or more duplicates of the bill of entry thereof, as the case may require, in which duplicates all sums and numbers may be expressed in figures; and the number of duplicates shall be such as the Collector or Comptroller may require.

*Bill of entry to
be in duplicate.*

67. Every importer, agent, or other person entering any goods who shall wilfully fail to comply with the foregoing regulations, so far as they are respectively applicable to the goods so entered by him, shall forfeit and pay the sum of twenty pounds.

*Importer or
agent failing to
comply with re-
gulations to for-
feit 20l.*

68. No entry or warrant for the landing of any goods shall be deemed valid unless the goods shall have been properly described in such entry by the denominations and with the characters and circumstances according to which such goods are charged with duty or may be imported, either to be used in the United Kingdom, or to be warehoused for exportation only.

*No entry or war-
rant valid unless
goods properly
described there-
in.*

69. If any package or parcel shall have been landed by or in pursuance of any entry, and any goods or other things shall be found in such package or parcel concealed in any way or packed to deceive the officers, such package or parcel and all the contents thereof shall be forfeited; and if any goods be taken or delivered out of any ship or out of any warehouse, not having been duly entered, the same shall be forfeited: (1) Provided always, that no entry shall be required in respect of the baggage of passengers, which may be examined, landed, (2) and delivered under such regulations as the Commissioners of Customs may direct, but if any prohibited or uncustomed goods shall be found concealed therein either before or after landing, the same shall be forfeited, together with the other contents of the package containing the same. (3)

*Goods concealed
in packages or
delivered with-
out entry for-
feited.*

*Passengers
baggage.*

70. The proper officer may permit any surplus stores, (4) not being merchandise, nor by him deemed excessive, to be entered for private use under and subject to the same duties, rules, and regulations as the like sort of goods would be subject to on impor-

*Surplus stores
not excessive
may be entered
for private use
or warehouse.*

(1) Sec. 55, 58 and 60. (2) Without sanction forfeited. Sec. 86.

(3) Denial by passengers. Sec. 229. (4) Stores outwards. Sec. 140.

*Importation
and
Warehousing.*

Entry of goods
by agents with-
out licence or by
unauthorised
persons not
permitted.

Penalty 20%.

Not to extend to
persons acting
by proper author-
ity.

Agent to pro-
duce authority
if required.

Officers may take
samples.

tation as merchandise, or permit the master, owner, purser, or other officer of any ship, or any passenger of such ship, to whom any surplus stores belong, to enter and warehouse such surplus stores for future use as ship's stores, although the same could not be legally imported by way of merchandise.⁽¹⁾

71. If at any port where persons acting as agents for transacting any business relating to the clearance of any ship or goods or baggage shall be required to be licensed,⁽²⁾ any person not so licensed, or not being the duly appointed clerk to any person so licensed, shall act as such agent or clerk, or if any person, whether so licensed or appointed or not, shall make or cause to be made entry of any goods without being duly authorized for that purpose by the proprietor or consignee of such goods, every such person shall for every such offence forfeit the sum of twenty pounds;⁽³⁾ but no such penalty shall extend to any person acting under the directions of the several Dock Companies, or to any person otherwise authorized by law to pass entries, nor to any merchant, importer, or consignee of any goods, acting himself in respect thereof, or any clerk or servant exclusively employed by him or by any such persons in copartnership.

72. Whenever any person shall make application to any officer of the Customs to transact any business on behalf of any other person, such officer may require of the person so applying to produce a written authority from the person on whose behalf such application shall be made, and in default of the production of such authority refuse to transact such business.

73. The officers of Customs may on the entry of any goods, or at any time afterwards, take samples⁽⁴⁾ of such goods for examination, or for ascertaining the duties payable on such goods, or for such other purpose as the Commissioners of Customs may deem necessary, and such samples shall be disposed of and accounted for in such manner as the Commissioners of Customs may direct.

(1) Wine and tobacco on Her Majesty's ships. Secs. 136 and 138.

(2) Appointment of licensing ports. Sec. 15.

(3) Granting of licences. Sec. 16.

(4) Importers' samples. Sec. 105.

As to the time within which goods shall be entered and landed after the arrival of the importing ship.

Importation and Warehousing.

74. If the importer of any goods shall not, within fourteen days (exclusive of Sundays and holidays), after the arrival of the ship importing the same, make perfect entry or entry by bill of sight of such goods, or if, having made such entry, he shall not land such goods within such fourteen days, or within such further period as the Commissioners of Customs shall direct, the officers of the Customs may convey such goods to the Queen's warehouse; and whenever the cargo of any ship shall have been discharged within such fourteen days, with the exception only of a small quantity of goods, the officers of the Customs may forthwith convey such remaining goods to the Queen's warehouse; and also at any time after the arrival of such ship may convey any small packages or parcels of goods therein to the Queen's warehouse, there to remain for due entry during the remainder of such fourteen days; and if the duties due upon any goods so conveyed to the Queen's warehouse shall not be paid within three months afterwards, or within such further period as the said Commissioners may direct, together with all charges of removal and warehouse rent, (1) such goods may be sold, and the produce thereof applied, first to the payment of freight and charges, next of duties, and the overplus, if any, shall be paid to the proprietor of the goods on his application for the same; but if such goods or any of them shall be of a perishable nature, the Commissioners of Customs may forthwith direct sale thereof, and apply the proceeds in like manner; Provided always, that for this purpose, if the importing ship and goods be liable to the performance of quarantine, the time for entry and landing of such goods shall be computed from the time at which such ship and goods shall have been released from quarantine: Provided always, that if forty-eight hours or any earlier period after the report of any ship is specified in the bills of lading for the discharge of her cargo or any part thereof, and the importer, owner, or consignee of such goods, or his agent shall neglect to enter and land the same within such

Entry, time for.

Goods not entered within fourteen days may be conveyed to Queen's warehouse.

Small packages or quantities of goods may be conveyed to Queen's warehouse.

If duties and charges on such goods be not paid within three months, the goods may be sold.

(1) Rent in Queen's Warehouse. Sec. 10.

*Importation
and
Warehousing.*
—

If goods remain on board importing ship beyond fourteen days, such ship may be detained for expenses.

forty-eight hours at any port or place approved by the Commissioners of Customs, the master or owner of such ship may immediately, on the expiration of such forty-eight hours, enter and land such goods.⁽¹⁾

75. Whenever any goods shall remain on board any importing ship beyond the period of fourteen days after the arrival of such ship, or beyond such further period as the Commissioners of Customs may allow, such ship shall be detained by the proper officer of Customs until all expenses of watching or guarding such goods beyond such fourteen days, or such further time, if any allowed as aforesaid, not exceeding five shillings per diem, and of removing the goods, or any of them, to the Queen's warehouse, in case the officers shall so remove them, be paid.

*Abatement for
Damage.*
—

Abatement of duty on damaged goods.

Proof required.

Goods derelict, &c., and droits of Admiralty to be treated as foreign goods.

Exceptions.

Damage to be assessed by competent persons.

As to goods upon which any abatement for damage on the voyage or by wreck may be claimed.

76. No claim for any abatement of duty in respect of any goods imported into the United Kingdom shall be allowed on account of damage, unless such claim shall be made on the first examination thereof, and in such form and manner as the Commissioners of Customs shall direct, nor unless it shall be proved to the satisfaction of the Commissioners of Customs or their officers that such damage was sustained after such goods had been shipped in the importing ship and before the landing thereof in the United Kingdom;⁽²⁾ and all goods derelict, jetsam, flotsam, and wreck brought or coming into the United Kingdom, and all droits of Admiralty sold in the United Kingdom, shall at all times be subject to the same duties as goods of the like kind on importation into the same part of the United Kingdom are subject to, unless it shall be shown to the satisfaction of the Commissioners of Customs that such goods are the growth, produce, or manufacture of any country or place by virtue whereof the same may be entitled to be admitted at less than the foreign duty, or duty free, or that the same, if liable to duty, are entitled to an abatement in respect of such damage; and the damage sustained by such goods, whether so imported or dere-

(¹) Landing without entry. Sec. 64.

(²) Warehouse goods excepted. Sec. 96. Remission of duties. Sec. 97.

lict, jetsam, flotsam, or wreck as aforesaid, shall be assessed by the officers of Customs, if competent thereto, but if not, or if the Commissioners of Customs, or the collector or comptroller of the port into which the same shall be imported or brought as aforesaid shall entertain any doubt as to the amount of such damage, they may call upon two indifferent merchants to examine the goods and certify to what extent in their judgment the same are lessened in value by such damage, whereupon the officers of the Customs may make an abatement not exceeding three-fourths of the duty originally chargeable thereon, but no allowance shall be made for damage on oculus indicus, nux vomica, rice, Guinea grains, lemons, spirits, corn, grain, meal and flour, opium, sugar, cocoa, oranges, tea, coffee, pepper, tobacco, currants, raisins, wine, and figs.

*Importation
and
Warehousing.*

Abatement not
to exceed three-
fourths of duty,
and not to apply
to certain goods.

*As to the production of certificates of origin in respect of goods
claiming any benefit thereby on importation.*

*Production of
certificates.*

77. No goods shall be entered as being of or from any British possessions abroad, (if any benefit attach to such distinction,) except the territories subject to the Government of the Presidencies of Bengal, Madras, and Bombay respectively, unless the master of the ship importing the same shall have delivered to the collector or comptroller a certificate, under the hand of the proper officer of the place where such goods were taken on board, of the due clearance of such ship from thence, containing an account of such goods.⁽¹⁾

Goods from
possessions
abroad.

Master to
deliver certi-
cate.

78. The Commissioners of the Treasury may by order under their hands declare that a certificate of production shall be required upon the exportation of any goods from any British possession abroad or other place, or upon the importation of such goods into the United Kingdom, and frame such regulations respecting such certificates and goods as they may think fit; and if any goods in respect of which such certificates are required be imported without such certificate they shall be deemed to be foreign goods, and liable to any duty attaching to them as such; and such orders of Treasury shall be published in the London and Dublin Gazettes

Power to the
Lords of the
Treasury to
require certi-
ficates of produc-
tion.

(¹) Certificate and departure without clearance. Sec. 165. Goods not certified deemed foreign. Sec. 168.

*Importation
and
Warehousing.*

Certificate of
growth of sugar
and spirits from
British posses-
sions in America
and the
Mauritius.

three times at least within three months from the date thereof respectively.

79. Before any spirits or sugar, so long as any benefit shall attach to the distinction, shall be entered as being of the produce of any British possession in America or the Island of Mauritius, the master of the ship importing the same shall deliver to the collector or comptroller a certificate, under the hand of the proper officer of the place where such goods were taken on board, testifying that proof had been made in manner required by law that such goods are of the produce of some British possession in America or of the Island of Mauritius, stating the name of the place where such goods were produced, and the quantity and quality of the goods, and the number and denomination of the packages containing the same, and the name of the ship in which they are laden, and of the master thereof.⁽¹⁾

Certificate of
sugar from
limits of East
India Company's
charter.

80. Before any sugar shall be entered as being the produce of any British possession within the limits of the East India Company's Charter, the master of the ship importing the same shall, so long as any benefit attach to such distinction, deliver to the collector or comptroller a certificate under the hand and seal of the proper officer at the place where such sugar was taken on board, testifying that a declaration in writing, the contents of which he believed to be true, had been made and signed before him by the shipper of such sugar, that the same was really and bonâ fide the produce of the British possession.⁽²⁾

East India sugar
warehoused at
the Cape of
Good Hope
and im-
ported from
thence.

81. If any sugar, the produce of any British possession within the limits of the East India Company's Charter, so long as any benefit attaches to such distinction, shall have been imported into the Cape of Good Hope from the place of its production, accompanied by such a certificate of origin as would be sufficient for its admission into the United Kingdom at the rate of duty payable upon such sugar, if imported direct from the place of its production, and shall have been warehoused at the Cape of Good Hope under the regulations there in force for the warehousing of goods, and shall have been exported from such warehouse, accompanied

⁽¹⁾ Certificate. Secs. 176 and 177.

⁽²⁾ Certificate. Sec. 178.

by a certificate from the proper officer of Customs at the Cape of Good Hope, setting forth the particulars of the importation, and of the warehousing, and of the exportation of the same, and also setting forth the substance of the certificate of origin before mentioned, and if on the arrival in the United Kingdom of the ship importing such sugar, the master of such ship shall deliver to the collector or comptroller at the port of importation such certificate from the officer of the Customs at the Cape of Good Hope, such sugar shall be admitted at such port of importation in the United Kingdom at the same rate of duty as would be payable if the same had been imported direct from the place of its production.

*Importation
and
Warehousing.*

82. Any goods of the growth of the Channel Islands, and any goods manufactured in the said Islands from materials of the growth of the said Islands, or from materials not subject to duty in the United Kingdom, or from materials upon which the duty has been paid in the United Kingdom, and upon which no drawback has subsequently been granted,⁽¹⁾ may be imported into the United Kingdom from the said Islands respectively without payment of any duty, and such goods shall not be deemed to be included in any charge of duties imposed by any Act on the importation of goods generally from parts beyond the seas; but such goods shall be charged with any proportion of such duties as shall fairly countervail any duties of Excise payable on the like goods the produce or manufacture of the part of the United Kingdom into which they shall be imported, or payable upon any of the materials from which such goods are manufactured; and all goods manufactured in any of the said Islands from any other materials than the materials aforesaid shall be declared and taken to be foreign goods.

Goods of Guernsey, Jersey. &c.

Duty free.

With exceptions.

83. Before any goods shall be entered as being the produce of the said Islands, (if any benefit attach to such distinction,) the master of the ship importing the same shall deliver to the collector or comptroller of Customs a certificate from the Governor, Lieutenant-Governor, or Commander-in-Chief of the Island from whence such goods were imported, that proof had been made in

Master to deliver certificate of produce.

(¹) Declaration and certificate. Sec. 180.

*Importation
and
Warehousing.*

Certificate of
wine from
British Posses-
sions.

manner required by law that such goods were of the produce of such Island, stating the quantity and quality of the goods, and the number and denomination of the packages containing the same.⁽¹⁾

84. Before any wine shall be entered as being the produce of any of the British possessions abroad, the master of the ship importing the same shall deliver to the collector or comptroller a certificate under the hand of the proper officer of such possession, testifying that proof had been made in manner required by law that such wine is the produce of such possession, stating the quantity and sort of such wine, and the number and denomination of the packages containing the same.⁽²⁾

*Unshipping,
landing and
examination.*

Unshipping,
carrying, land-
ing, weighing,
&c., and depo-
siting of goods,
to be done at
the expense of
the importer.

Timber to be
piled at the ex-
pense of the
importer, so as
to enable the
officer of Cus-
toms to mea-
sure it.

Goods removed
or carried into
the warehouse
without exami-
nation or au-
thority, for-
feited.

*As to the unshipping, landing, examination, warehousing, and
custody of goods.*

85. The unshipping, carrying, and landing of all goods, and bringing them to the proper place for examination, and weighing, putting them into the scales, opening, unpacking, repacking, bulking, sorting, lotting, marking, and numbering, where such operations respectively are necessary or permitted, and removing to and placing them in the proper place of deposit until duly delivered, shall be performed by or at the expense of the importer;⁽³⁾ and the importer or person entering any timber or wood to be charged with duty by measurement shall, at his expense, pile, sort, frame, or otherwise place the same in such manner as the Commissioners of Customs may deem necessary to enable the officers to measure and take the account thereof; and in all cases when the same is measured in bulk, the measurement shall be taken to the full extent of the pile, and no allowance shall be made by the officers on account of any interstices; but battens, boards, deals, and planks exceeding twenty-one feet in length may be measured by the piece, and the account thereof taken separately.

86. If any goods shall be removed from any ship, quay, wharf, or other place previous to the examination thereof by the proper

(1) Certificate. Sec. 180.

(2) Certificate. Sec. 179.

(3) What goods may be bulked, sorted, &c. Sec. 90.

officer of Customs, unless under the care or authority of such officer, or if any goods entered to be warehoused, or to be re-warehoused, shall be carried into the warehouse, unless with the authority or under the care of the proper officer of Customs, and in such manner, by such persons within such time, and by such roads or ways as such officer shall direct, such goods shall be forfeited.⁽¹⁾

*Importation
and
Warehousing.*
—

87. Upon the entry and landing of any goods to be warehoused, or within such period as the Commissioners of Customs shall direct with respect to the same or any of them, the landing-waiter or other officer of Customs shall take a particular account of such goods at the quay or wharf, at which they shall be so landed, or in the warehouse, if they be goods of which the account⁽²⁾ is permitted to be taken in the warehouse, and shall cause to be marked on each package of which such account shall be taken the contents thereof, and shall enter in a book prepared for that purpose, containing the name of the import ship, and of the person in whose name they are entered, the marks, numbers, and contents of each such package, the description of the goods, and the warehouse or place in the warehouse in which the same shall be deposited, and when the same shall have been so deposited with the authority of such officer he shall certify that the entry and warehousing of such goods is complete, and such goods shall from that time be considered goods warehoused; and if any such goods shall be delivered, withheld, or removed from the proper place of examination before the same shall have been duly examined and certified by such officer, such goods shall be deemed to be goods not duly entered or warehoused, and shall be forfeited.⁽³⁾

*Landing waiter
to take account
of goods for
warehouse.*

*Contents of
packages to be
marked thereon,
and entered in
landing book.*

88. The account of the goods so taken as aforesaid shall be the account upon which the duties payable upon such goods shall be ascertained when the same shall ultimately come to be delivered upon due entry for that purpose, and the same shall be entered and the full duties due thereon be paid according to the quantity taken in such account, without any abatement for any deficiency, except as hereinafter provided.⁽⁴⁾

*Goods to be
entered and
duties ascer-
tained and paid
according to
landing ac-
count.*

(¹) Persons removing. Sec. 233.

(²) Samples. Sec. 73.

(³) Persons concerned. Sec. 233. (⁴) Exceptions. Secs. 97, 110 and 112.

*Importation
and
Warehousing.*

Warehoused
goods to be de-
posited in origi-
nal packages
or those of
which account
is taken.

Goods altered or
removed with-
out sanction of
officers for-
feited.

Commissioners
to direct what
goods may be
bulked, sorted,
packed &c.

Warehouse-
keeper neglect-
ing to stow
goods properly
to forfeit 5*l*.

Warehouse-
keeper neglect-
ing to produce
goods deposited,
when required,
to forfeit 5*l*.

Goods not duly
warehoused, or
fraudulently
concealed or re-
moved, forfeited.

89. All goods warehoused shall be deposited in the packages in which the same shall have been imported, except as to such goods as are permitted to be skipped on the quay, or bulked, sorted, lotted, packed, or repacked in the warehouse after the landing thereof, in which case they shall be deposited in the packages in which the same shall be when the account thereof is taken by the proper officer; and if such goods are not so deposited, or if any alteration shall afterwards be made in the goods so deposited, or in the packing thereof in the warehouse, or if the same shall be removed from the room in the warehouse in which the same are deposited, without the presence or sanction of the proper officers, except for delivery under the proper warrant, order, or authority for that purpose, they shall be forfeited.⁽¹⁾

90. The Commissioners of Customs may direct what goods may be skipped on the quay, or bulked, sorted, lotted, packed, or repacked, and determine in respect of what goods the account may be taken in any warehouse approved by them for that purpose, and within what time after the landing thereof, and on such conditions as they may deem necessary.⁽²⁾

91. If the occupier of any warehouse shall neglect to stow the goods warehoused therein so that easy access may be had to every package and parcel thereof he shall for every such neglect forfeit the sum of five pounds.

92. If the occupier of any warehouse shall not produce to any officer of Customs on his request any goods deposited in such warehouse which shall not have been duly cleared and delivered therefrom, such occupier shall for every such neglect forfeit the sum of five pounds in respect of every package or parcel not so produced, besides the duties due thereon.

93. If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or being duly warehoused shall be fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, they shall be forfeited.⁽³⁾

(¹) Persons concerned. Sec. 232.

(²) Account. Sec. 105. Expence of bulking, sorting, &c. Sec. 85.

(³) Persons concerned. Sec. 232.

94. If the importer or proprietor of any goods warehoused, or any person in his employ, shall clandestinely open the warehouse, or, except in the presence of the proper officer of Customs acting in the execution of his duty, gain access to the goods, such importer or proprietor shall for every such offence forfeit the sum of one hundred pounds.

Importation and Warehousing.

Importer or proprietor of warehoused goods clandestinely gaining access thereto to forfeit 100*l*.

95. If any goods shall be taken out of any warehouse without due entry of the same with the proper officer of Customs, the occupier of such warehouse shall forthwith pay the duties due upon such goods;⁽¹⁾ and every person so taking out any goods without payment of duty, or who shall aid, assist, or be concerned therein, and every person who shall wilfully destroy or embezzle any goods duly warehoused, shall be deemed guilty of a misdemeanor, and shall, upon conviction, suffer the punishment by law inflicted in cases of misdemeanor; but if such person shall be an officer of Customs or Excise not acting in the due execution of his duty, and shall be prosecuted to conviction by the importer, consignee, or proprietor of such goods, no duty shall be payable for or in respect of such goods, and the damage occasioned by such waste, spoil, or embezzlement shall, with the sanction of the Commissioners of the Treasury, be repaid or made good to such importer, consignee, or proprietor by the Commissioners of Customs.

Duty on goods taken out of warehouse without entry to be paid by warehouse-keeper.

Persons taking goods out of warehouse, or destroying goods in warehouse, to be deemed guilty of a misdemeanor.

Importer or consignee, if defrauded by officers, to be indemnified.

96. No compensation shall be made by the Commissioners of Customs to any importer, proprietor, or consignee of any goods by reason of any damage occasioned thereto in the warehouse by fire or other inevitable accident.

If goods be damaged by fire, &c., the importer not entitled to compensation.

97. If any goods warehoused or entered to be warehoused, or entered to be delivered from the warehouse, shall be lost or destroyed by unavoidable accident, either on shipboard or in landing, or in receiving into the warehouse, or in the warehouse, the Commissioners of Customs may remit or return the duties due thereon.⁽²⁾

Commissioners of Customs may remit duties on warehoused goods lost or destroyed.

(¹) See also Sec. 128.

(²) Outwards, Sec. 129.

*Importation
and
Warehousing.*

Removal.

Goods may be removed from one port to another ;

or from one warehouse to another in the same port.

Regulations for removal.

Officers at port of removal to transmit account of goods to officers at port of destination.

Remover to give bond in the amount of duty.

Bond may be given either at port of removal or port of destination.

Bond how to be discharged.

As to the removal of warehoused goods.

98. Any goods warehoused at any port in the United Kingdom may be removed by sea or by inland carriage to any other port in which the like kind of goods may be warehoused on importation, to be re-warehoused at such other port, and again as often as may be required at any other such port, to be there re-warehoused, or, with the permission of the proper officers of Customs, from any warehouse in any port to any other warehouse in the same port, under such regulations and with such security as the Commissioners of Customs may direct, on the delivery to the proper officer by the person requiring such removal of a request note, stating the particulars of the goods required to be removed, the name of the port, or of the warehouse if in the same port, to which the same are intended to be removed, and with such other information and in such manner and form as the Commissioners of Customs or the proper officer may direct or require.

99. On the delivery of any goods for removal, an account, containing the particulars thereof, shall be transmitted by the proper officers of the port of removal to the proper officers of the port or place of destination, and the person requiring the removal thereof shall enter into bond, with one sufficient surety, in a sum equal at least to the duty chargeable on such goods, for the due arrival and re-warehousing thereof at the port or place of destination within such time as the Commissioners of Customs may direct, such bond to be taken by the collector, comptroller, or other proper officer, either of the port or place of removal, or the port or place of destination, as shall best suit the residence or convenience of the parties interested in such removal; and if such bond shall have been given at the intended port or place of destination, a certificate thereof, under the hand of the collector or comptroller or other proper officer of such port, shall, at the time of the entering of such goods, be produced to the collector, comptroller, or other proper officer of the port of removal; and such bond shall not be discharged unless such goods shall have been produced to the proper officer, and duly re-warehoused at the port of destination, within the time allowed for such removal, or

shall have been otherwise accounted for to the satisfaction of the Commissioners of Customs, nor until the full duties due upon any deficiency of such goods not so accounted for shall have been paid; but any remover may enter into general bond, with such sureties, in such amount, and under such conditions as the Commissioners of Customs may approve, for the removal from time to time of any goods from one warehouse to another, and for the due arrival and re-warehousing of the same at the place of destination within such time or times as the said Commissioners may direct.

*Importation
and
Warehousing.*

General removal
bond may be
given.

100. Upon the arrival of such goods at the port or place of destination the same shall be entered and warehoused in the same manner, and under and subject to the same laws, rules, and regulations, so far as the same are or can be made applicable, as are required on the entry and warehousing of goods on the first importation thereof.⁽¹⁾

Goods, on arrival at the port of destination to be subject to same regulations as goods on first importation.

101. If upon the arrival of goods so removed as aforesaid at the port of destination the parties shall be desirous forthwith to export the same, or to pay duty thereon for home use, without actually lodging the same in the warehouse for which they have been entered and examined to be re-warehoused, the officers of Customs at such port may, after all the formalities of entering and examining such goods for re-warehousing have been duly performed, permit the same to be entered and shipped for exportation, or to be entered and delivered for home use, upon payment of the duties due thereon, as if such goods had been actually lodged in such warehouse; and all goods so exported, or for which the duties have been so paid, shall be deemed to have been duly cleared from the warehouse.

On arrival of goods at port of destination they may, after formal re-warehousing, be entered for exportation or for home use, on payment of duties.

102. No spirits which shall have been imported from parts beyond the sea into the United Kingdom upon which a higher duty is payable on their importation into England than on their importation into Scotland or Ireland, shall be brought from Scotland or Ireland into England; nor shall any such spirits upon which a higher duty is payable on their importation into Scotland than on their importation into Ireland, be brought from Ireland into Scotland, except such as shall have been duly

No spirits which shall have been imported into the United Kingdom shall be removed except from warehouse.

(1) Secs. 58 and 59.

*Importation
and
Warehousing.*

Penalty for
removal of spirits
contrary hereto.

Warehoused
goods, if not
cleared for home
use or exporta-
tion within five
years, must be
re-warehoused.

Duties on defi-
ciencies and ex-
pense of exami-
nation to be paid
down.

Goods in ware-
house not cleared
or re-ware-
housed, or duties
paid on deficien-
cies, after five
years, to be sold.

Proceeds of sale,
how to be ap-
plied.

warehoused upon the first importation thereof, according to the laws in force for the warehousing of goods, and which shall be in the warehouse at the time of such intended removal, and which shall be removed from one warehousing port to another warehousing port, according to the regulations required by law ;⁽¹⁾ and all such spirits, when so removed, shall be liable to the duty payable thereon in that part of the United Kingdom into which they shall be so removed, if they be entered for home consumption therein ; and all spirits removed contrary hereto shall be forfeited, and all persons concerned in such removal, or knowingly receiving or harbouring any spirits so removed, shall forfeit the penalty of one hundred pounds, or treble the value of such spirits, at the election of the Commissioners of Customs or Inland Revenue.

103. All warehoused goods shall be cleared either for home use or exportation at the expiration of five years from the day on which the same were so warehoused, or within such further period and in such cases as the Commissioners of the Treasury shall direct, unless the owner or proprietor of such goods shall be desirous of re-warehousing the same, in which case the same shall be examined by the proper officers, and the duties due upon any deficiency or difference between the quantity ascertained on landing and the quantity found to exist on such examination, together with the necessary expense attendant thereon, shall, subject to such allowances as are by law permitted in respect thereof, be paid down, and the quantity so found shall be re-warehoused in the name of the then owner or proprietor thereof in the same manner as on first importation.

104. If any warehoused goods shall not be duly cleared, exported, or re-warehoused, and the duties ascertained to be due on the deficiencies as aforesaid shall not be paid down at the expiration of five years from the previous entry and warehousing thereof, or within such further period as shall be directed as aforesaid, the same, if worth the duty due thereon, shall, after one month's notice to the warehouse keeper, with all convenient speed be sold either for home use or exportation, with or without the consent of the warehouse keeper, and the proceeds thereof

⁽¹⁾ Sec. 98.

shall be applied to the payment of the duties, warehouse rent, and charges, and the surplus, if any, shall be paid to the owner or proprietor of such goods, if known, but if such owner or proprietor cannot be found, such surplus shall be carried to the Crown's account, to abide the claim of such owner or proprietor on his appearing and making good his claim thereto; and if such goods shall not be worth the duty, then the same, after such one month's notice as aforesaid, may be exported or destroyed, with or without the concurrence of the owner thereof, or the proprietor of the warehouse in which the same were so warehoused, as the Commissioners of Customs shall see fit; and the duties due upon any deficiency thereof not allowed by law shall be forthwith paid by the proprietor of the warehouse.

*Importation
and
Warehousing.*
—

Goods not worth
the duty may be
exported or
destroyed.

105. With the sanction of the Commissioners of Customs,⁽¹⁾ and after such notice given by the respective importers or proprietors, and at such times and under such regulations and restrictions as the Commissioners of Customs shall from time to time require and direct, it shall be lawful in the warehouse to sort, separate, pack, and repack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof; provided that such goods be repacked in the packages in which they were imported, or in such other packages as the Commissioners shall permit (not being less in any case, if the goods be to be exported or to be removed to another warehouse, than is required by law on the importation of such goods); and also to draw off any wine or any spirits into reputed quart or pint bottles for exportation only; and to draw off and mix brandy with any wine, not exceeding the proportion of ten gallons of brandy to one hundred gallons of wine; and also to fill up any casks of wine or spirits from any other casks of the same respectively secured in the same warehouse; and also to rack off any wine from the lees, and mix any wines of the same sort, erasing from the cask all import brands, unless the whole of the wine so mixed be of the same brand; and also to take such samples of goods as may be allowed by the Commissioners of Customs,⁽²⁾ with

Goods in warehouse may be
sorted, re-packed
&c.

To be re-packed
in the original
or other legal
sized packages.

Wine or spirits
may be bottled
for exportation
only. Brandy
may be mixed
with wine in the
proportion of ten
gallons to one
hundred. Casks
of wine or spirits
may be filled up
or racked off

Wines may be
mixed, and
samples taken.

(¹) What goods may be sorted, &c. Sec. 90.

(²) Officers may take samples. Sec. 73.

*Importation
and
Warehousing.*

After repacking,
damaged parts
may be de-
stroyed.

Foreign import
or duty-paid
packages only to
be used in re-
packing.

Goods in ware-
house may be
taken out, under
certain regula-
tions, and with
security for
duties.

Delivery of
sugars duty-
free to be refined
for exportation
only.

Refiner to give
bond.

or without entry, and with or without payment of duty, except as the same may eventually become payable as on a deficiency of the original quantity; and the duty on the surplus, if any, of such goods as may be delivered for home use shall be immediately paid, and such surplus shall thereupon be delivered for home use accordingly; and after such goods have been so separated and repacked in proper or approved packages, the Commissioners of Customs may, at the request of the importer or proprietor of such goods, cause or permit any refuse, damage, or surplus goods occasioned by such separation or repacking, or, at the like request, any goods which may not be worth the duty, to be destroyed, and may remit the duty payable thereon.⁽¹⁾

106. No foreign packages or materials whatsoever shall be used in the repacking of any goods in the warehouse, except such as shall have been used in the importation of warehoused goods, unless the full duties thereon shall have been first paid.

107. The Commissioners of Customs may permit any goods to be taken out of the warehouse without payment of duty, for such purpose or for such period as to them may appear expedient, and in such quantities, and under such regulations and restrictions, and with such security by bond for the due return thereof or the payment of the duties due thereon, as they may direct or require; and the officers of Customs of any port where any premises shall be approved as a bonded sugar house may deliver any quantity of sugar, on the application of the proprietor or occupier of such bonded sugar house, and on entry of such sugar with the proper officer of Customs, for the purpose of being there refined, under the locks of the Crown, for removal to the Isle of Man or for exportation; and all sugars so delivered shall be lodged and secured in such premises, under such conditions, regulations, and restrictions, as the Commissioners of Customs shall from time to time direct.⁽²⁾

108. Upon the entry of any sugar to be refined in any premises approved under this Act, the proprietor or occupier shall give bond, to the satisfaction of the officers of the Customs, in a sum equal to double the amount of the duty payable upon a like

(1) See also Sec. 97.

(2) Approval of sugar-houses. Sec. 10.

quantity of sugar, with a condition that the whole of such sugar shall be actually subjected to the process of refinement upon the said premises, and that within four months from the date of such bond, the whole of the refined sugar and treacle produced by such process shall be either duly removed to the Isle of Man or exported from the said premises, or delivered into an approved bonded warehouse under the locks of the Crown, for the purpose of being eventually so removed or exported.

*Importation
and
Warehousing.*

As to the entry of warehoused goods for home consumption, and exportation, and the delivery thereof.

*Entry for Home
Consumption and
Exportation.*

109. No warehoused goods shall be taken or delivered from the warehouse, except upon due entry, and under the care of the proper officers, for exportation, or upon due entry and payment of the full duties payable thereon for home use,⁽¹⁾ except goods delivered into the charge of the searchers to be shipped as stores, in such quantities as the Collector or comptroller shall allow, subject to the directions of the Commissioners of Customs, and under such regulations as they may see fit to make.⁽²⁾

*Entry for ex-
portation or
home use.*

110. Upon the entry of any goods to be cleared from the warehouse for home use the person entering such goods shall deliver a bill of entry, and duplicates thereof,⁽³⁾ in like manner and form, containing the same particulars, as are herein-before required on the entry of goods to be delivered for home use on the landing thereof,⁽⁴⁾ as far as the same may be applicable, and shall at the same time pay down to the proper officer of Customs the full duties payable thereon, not being less in amount than according to the account of the quantity taken by the landing waiter or other proper officer on the first entry and landing thereof,⁽⁵⁾ except as to the following goods; viz., tobacco, wine, spirits, figs, currants, raisins, and sugar, the duties whereon, when cleared from the warehouse for home use, shall be charged upon the quantity of such goods, ascertained by weight, measure, or strength at the

*Persons entering
warehoused
goods for home
use to deliver
bill of entry, and
pay down duties.*

*Duties to be paid
according to
landing account,
except in certain
cases.*

*Duties on certain
goods to be
charged on
ascertained
quantity on*

(¹) Sec. 88. Persons removing without entry, &c. Sec. 232.

(²) Shipment of stores. Sec. 140.

(³) *Vide* note on Sec. 55 as to spirits and tobacco.

(⁴) Sec. 55.

(⁵) Account. Sec. 87.

- Importation and Warehousing.** — time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of the deficiency or difference between the weight, measure, or strength ascertained on landing and first examination of any such last-mentioned goods, and that ascertained at the time of actual delivery, has been caused by illegal or improper means, in which case the proper officer of Customs shall make such allowance only for loss as he may consider fairly to have arisen from natural evaporation or other legitimate cause.
- delivery, unless deficiency has been caused by improper means.
- Value of goods (for allowance on deficiencies) to be estimated by officers at the market price.** 111. When any deficiency occurs in goods chargeable to pay duty according to the value thereof, the value thereof shall be estimated as nearly as conveniently may be by the officers of Customs according to the market price of the like sort of goods.
- Deficiencies in goods entered for exportation not to be charged with duty, unless fraudulent.** 112. No duty shall be charged in respect of any deficiency in goods entered and cleared from the warehouse for exportation, unless the officers of Customs have reasonable ground to suppose that such deficiency or any part thereof has arisen from illegal abstraction.
- Entries for wood goods restricted.** 113. No entry for home consumption shall from and after the passing of this Act be received for or in respect of any timber or wood goods deposited in any warehouse for security of duties, for any less quantity at any one time than five loads of such timber or wood goods, unless such wood goods shall be delivered by tale, in which case such entry may be passed for any quantity thereof not being less than two hundred and forty pieces, or two great hundreds of such wood goods; and no less quantity of such timber or wood goods shall be delivered in virtue of any such entry at any one time than one load of such timber or wood goods, or ninety pieces of such wood goods if delivered by Tale.
- Cards imported not to be sold without a wrapper provided by the Commissioners of inland revenue.** 114. No pack or parcel of playing cards^(*) imported into any part of the United Kingdom shall be sold or exposed or kept for sale without being separately enclosed in a wrapper provided by the Commissioners of Inland Revenue, with such device thereon as they shall direct, and securely fastened round or over the same by means of some adhesive substance, and so and in such manner that such wrapper cannot be opened

(¹) See Commentary on these Sections.

without being destroyed ; and if any person shall sell, or offer or expose or keep for sale, any pack or parcel of playing cards, not being a pack of cards within the meaning of an Act passed in the present session, chapter fifty-nine, and enclosed in a wrapper of a licensed maker of playing cards approved by the said Commissioners, and the same not being bonâ fide waste cards within the meaning of the same Act, without the same being enclosed in a wrapper provided by the last-mentioned Commissioners in pursuance of this Act, and fastened as herein-before in that behalf mentioned, he shall for every such pack or parcel of cards forfeit, if he shall not be a licensed maker of playing cards, the sum of ten pounds, and if he shall be such licensed maker the sum of twenty pounds, whether such cards shall have been made in the United Kingdom or imported ; which penalty, as well as any penalty relating to playing cards imposed by the said last-mentioned Act, may be recovered, either in Her Majesty's superior courts or before any Justice of the Peace, in like manner as any penalty under any Act relating to Stamp duties ; and all such cards so offered, exposed, or kept for sale may be seized and taken by any officer of Customs or Inland Revenue and shall be disposed of as the Commissioners of Inland Revenue shall direct ; and in any proceedings for the recovery of any such penalty by this Act imposed it shall be sufficient to allege that the person charged with the offence did sell, or offer or expose or keep for sale, as the case may be, a pack, or any number of packs of playing cards, without the same being enclosed in a wrapper required by law, and it shall not be necessary further or otherwise to charge or describe the offence.

*Importation
and
Warehousing.*
—

Penalty 10*l.* if
not a maker,
20*l.* if a maker.

Cards kept for
sale without
wrapper for-
feited.

115. The Commissioners of Inland Revenue shall provide wrappers for enclosing cards imported into the United Kingdom, in such form and with such device and with any words and figures thereon as they shall think proper, and shall appoint an officer, at any port or place where the same shall be required, to enclose in such wrappers any cards imported ; and every such officer, on reasonable notice and upon delivery to him of a certificate under the hand of the proper officer of Customs at the port where any

Commissioners
of inland reve-
nue to provide
wrappers to en-
close therein
cards imported.

*Importation
and
Warehousing.*
—

cards shall be imported, that the duties by law charged on such cards imported have been duly paid, and specifying such particulars as the Commissioners of Inland Revenue shall direct, shall enclose every pack of such cards in one of such wrappers, and securely fasten the same by means of some adhesive substance, in such manner as the said last-mentioned Commissioners shall direct; and no such cards shall be delivered out of the custody of the officers of Customs until they shall be enclosed in such wrappers as aforesaid; and if any such cards, or any cards made in the United Kingdom and purporting to be or intended to be represented as cards imported, or, which shall not be bona fide waste cards as aforesaid, or packs of cards in respect of which the stamp duties shall have been paid, shall be found in any part of the United Kingdom not enclosed in any such wrapper as aforesaid, all such cards shall be forfeited, and may be seized and taken by any officer of Customs or Inland Revenue, and shall be disposed of as the Commissioners of Inland Revenue shall direct.⁽¹⁾

*Forgery of
wrapper.*

116. If any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, or shall aid or assist in the forging or counterfeiting of any wrapper provided by the Commissioners of Inland Revenue in pursuance of this Act, or any wrapper of a licensed maker of playing cards, or any wrapper purporting to be the wrapper of any such licensed maker made for enclosing playing cards, or shall knowingly and wilfully utter, or, without lawful excuse, the proof whereof shall lie upon him, be possessed of any such forged or counterfeit wrapper, he shall be guilty of felony, and shall be liable to the same punishment as any person guilty of forging or counterfeiting any stamp or mark provided, made, or used by the Commissioners of Inland Revenue.

III.
Exportation.
—

*Entry of Goods,
&c., out.*

As to the exportation and entry of goods, and the clearance of ships from the United Kingdom to parts beyond the seas.

*Warehoused
goods not to be
exported in
ships of less than
fifty tons burden
except to Guernsey or Jersey.*

117. No person shall export any warehoused goods, nor enter any such goods for exportation from the United Kingdom to parts beyond the seas, in any ship of less burden than fifty tons, except

(1) Exportation of cards. See 9 Geo. IV. c. 18.

to the islands of Guernsey and Jersey in ships not being of less *Exportation.* than forty tons burden, regularly trading to those islands.⁽¹⁾

118. The master of every ship in which any goods are to be exported from the United Kingdom to parts beyond the seas, or his agent, shall, before any goods be taken on board, deliver to the collector or comptroller a certificate from the proper officer of the due clearance inwards or coastwise of such ship of her last voyage, and shall also deliver therewith an entry outwards of such ship, verified by his signature, in the following form or to the same effect, and containing the several particulars indicated or required thereby.

ENTRY OUTWARDS.

Ship's Name.		Tonnage.	Master's Name.	Port of Destination.
If British, Name of Port of her Registry.	If Foreign, Name of Country to which she belongs.			

Lying at (Name of Station or Place in Port.)

(Signed) _____ . Master or Agent.

Date of Entry.

If Ship shall have commenced }
her Lading at any other Port, }
(Name of such Port.)

and if such ship shall have commenced her lading at some other port, the master shall deliver to the searcher the clearance of such goods from such other port; and if any goods be taken on board any ship at any port before she shall have been entered outwards at such port (unless a stiffening order, when necessary, shall

(1) Liability of ships. Sec. 192. And goods. Sec. 193.

Exportation. be issued by the proper officer to lade any heavy goods for exportation on board such ship), the master shall forfeit the sum of one hundred pounds.

Penalty.

Goods not to be shipped except on proper days and places, nor until entry and clearance.

Searcher may open packages and examine goods.

119. No goods shall be shipped, put off, or water-borne to be shipped for exportation, from any port or place in the United Kingdom, except on days not being Sundays or holidays,⁽¹⁾ nor from any place except some legal quay, wharf, or other place duly appointed for such purpose,⁽²⁾ nor without the presence or authority of the proper officer of Customs, nor before due entry outwards of such ship, and due entry of such goods, nor before such goods shall have been duly cleared for shipment;⁽³⁾ and it shall be lawful for the searcher to open all packages, and fully to examine all goods shipped or brought for shipment at any place in the United Kingdom.

Entry and Clearance.

As to the entry and clearance of goods for exportation.

On entry outwards, bond for due shipping and landing shall be given.

120. Before any warehoused goods, British-wrought plate,⁽⁴⁾ goods subject to duties of Customs, or entitled to any drawback of Customs, on exportation, or exportable only under particular rules, regulations, or restrictions, shall be permitted to be exported, the exporter or his agent shall deliver to the collector or comptroller a bond note or account of such goods, and give security by bond in double the amount of duty payable by law upon the importation of such goods, with one sufficient surety, that such goods shall be duly shipped and exported, and shall be landed at the place for which they are entered outwards, or otherwise accounted for to the satisfaction of the Commissioners of Customs; and such bond note, when certified by the proper officer, shall be the export entry for such goods.

Exporter to deliver shipping bill.

121. Before any such goods shall be shipped or water-borne to be shipped for exportation, the exporter or his agent shall deliver to the searcher or other proper officer a shipping bill of such goods in the form following or to that effect, and containing the particulars indicated therein or required thereby.

(¹) Holidays. Sec. 6.

(²) Appointment of quays, &c. Secs. 9 and 13.

(³) Forfeiture of goods. Sec. 144. Power to seize. Sec. 223.

(⁴) See Commentary on this sec.

SHIPPING BILL

Exportation.

- FOR { 1. WAREHOUSED OR DRAWBACK GOODS.
2. FOREIGN GOODS NOT FOR DRAWBACK.
3. GOODS EXPORTED UNDER SOME PARTICULAR RULE, REGULATION,
OR RESTRICTION.

Form of shipping bill for goods for which bond is required to be given on exportation.

(State as above described the Class to which the Goods to be exported belong.)

Ship's Name.	Whether British or Foreign Ship; if Foreign, the Country.	Master's Name.	The Port or Place of Destination.
<i>Here state the Particulars according to the above Headings.</i>			

Marks.	Numbers.	Description of Packages.	Quantity, Quality and Description of Goods.
<i>Here state the Particulars according to the above Headings.</i>			
Total Number of Packages			

I claim Drawback on { *Here state the Quantity and Description in Words at length of any Goods in respect of which Drawback is claimed.*

(Signed) _____

Exporter or Agent

Station of Clearance.

(Countersigned) _____

Dated _____ day of _____

Searcher.

Exportation.

Inland revenue
drawback.
Notice to officer.
Order to
searcher.
Shipment to be
certified.

122. No drawback of Excise shall be allowed upon any goods cleared for exportation, unless the person intending to claim such drawback shall have given due notice to the officer of Excise, and shall have produced to the searcher, at the time of clearing such goods, a proper document under the hand of the officer of Excise, containing the description of such goods; and if such goods be found to correspond with the particulars of the goods contained in such document, and be duly shipped and exported, the searcher shall, if required, certify such shipment upon such document, and shall transmit the same to the officer of Excise.

Goods not en-
titled to draw-
back if of less
value than
claimed.

Penalty for en-
try of such
goods.

123. No drawback shall be allowed upon the exportation of any goods entered for drawback or as stores which shall be of less value than the amount of the drawback claimed; and all such goods so entered shall be forfeited, and the person who caused such goods to be entered shall forfeit the sum of two hundred pounds, or treble the amount of drawback claimed in such case, at the election of the Commissioners of Customs.

No drawback on
tobacco not pro-
perly manufac-
tured, and pe-
nalty on persons
fraudulently at-
tempting to ob-
tain drawback.

124. No drawback shall be allowed on any tobacco⁽¹⁾ not wholly manufactured from tobacco on which the duty on importation shall have been paid, nor on any tobacco mixed with dirt, rubbish, or other substance; and every person who shall enter or ship, or cause to be entered or shipped, any tobacco contrary hereto, shall, over and above all other penalties which he may thereby incur, forfeit treble the amount of the drawback sought to be obtained, or two hundred pounds, at the election of the Commissioners of Customs, and all such tobacco shall be forfeited.

Shipping bill for
free goods, &c.,
to be delivered
to searcher.

125. Before any goods in respect of which no bond is required shall be shipped or water-borne to be shipped for exportation, the exporter or his agent shall deliver to the searcher a shipping bill thereof, with such duplicates as may be required by him, in the following form or to that effect, and containing the several particulars indicated in or required thereby: (*)

(¹) Drawback on British manufactured tobacco, "Customs Tariff Act, 1853." Table A. No. 429.

(²) Forfeiture of goods. Sec. 144. Power to seize. Sec. 233.

Exportation.

body, the owner, charterer, consignee, broker, agent, or other person acting in the loading and clearance of the exporting ship shall also prepare a full and accurate list or manifest of all such goods from the bills of lading and freight list thereof, and shall sign and leave with the collector of the Customs, within fourteen days after such ship shall have cleared outwards, a correct transcript of such last-mentioned list or manifest,⁽¹⁾ with the addition of the value of such goods, if any, as shall have been previously chargeable with duty, at value, and of British goods, distinguishing therein the names of the several shippers of such goods, according to the bills of lading; and on failure to prepare such list or manifest, and to sign and deliver such transcript as aforesaid, such owner, charterer, consignee, broker, or other person as aforesaid shall forfeit the sum of twenty pounds.

Shipping bill
signed by
searcher to be
the clearance
for the goods.

126. The shipping bill or bills, when filled up, and signed by the exporter or his agent, or the consignee of the ship, as the case may be, in such manner as the proper officer may require, and countersigned by the searcher, shall be the clearance for all the goods enumerated therein;⁽²⁾ and if any of such goods shall consist of tea, spirits, or tobacco, the exporter or his agent shall furnish to the searcher an account thereof, containing the number and description of the packages, and the respective quantities contained therein, which, when certified by the searcher, shall accompany the ship, and have the same force and effect as the cocket in use prior to the passing of this Act;⁽³⁾ and if the exporter or his agent shall require a similar certificate in respect of any other goods shipped for exportation, the searcher shall, on its being presented to him for that purpose, certify the same in like manner: Provided always, that if any such certificate be required to be in any particular form for goods destined for the Zollverein or any other foreign state, or under the name of Cocket, such certificate may be so prepared and denominated.

Licensed lighter-
man to
carry goods.

127. If any goods cleared for drawback or from the warehouse shall be carried or water-borne to be put on board any ship for

⁽¹⁾ General regulation. Sec. 142. Inwards. Sec 60.

⁽²⁾ Goods reloaded forfeited. Sec. 133. Liability of persons, ships, &c. *ib.*

⁽³⁾ *Vide* 8 and 9 Vict. c. 36. Secs. 66 and 70, repealed.

exportation by any person not at the time duly licensed and authorized to act as a licensed lighterman, either in the port of London or any other port at which lightermen are required to be so licensed,⁽¹⁾ or by any person not being in the employ of such lighterman at the time duly authorized to act as such, every such person shall for every such offence forfeit the sum of twenty pounds.

128. If any goods taken from the warehouse for removal or for exportation shall be removed or shipped, except with the authority or under the care of the proper officer of Customs, and in such manner, by such persons, within such time, and by such roads or ways as such officer shall permit or direct, such goods shall be forfeited.⁽²⁾

129. If any goods duly entered for delivery from the warehouse for removal or exportation shall be lost or destroyed by unavoidable accident, either in the delivery from the warehouse or the shipping thereof, the Commissioners of Customs may remit the duties due thereon.⁽³⁾

As to the issue of debentures for and payment of drawback on goods exported:

130. For the purpose of computing and paying any drawback claimed and payable upon any goods duly entered, shipped, and exported, a debenture shall in due time after such entry be prepared by the Collector or Comptroller, certifying in the first instance the entry outwards of such goods, and so soon as the same shall have been duly exported, and a notice containing the particulars of the goods shall have been delivered by the exporter to the searcher, the shipment and exportation thereof shall be certified to the Collector or Comptroller upon such debenture by the searcher, and the debenture shall thereupon be computed and passed with all convenient despatch.⁽⁴⁾

(¹) At what ports licences required; power to grant and revoke licences, &c. Sec. 17.

(²) Persons concerned. Sec. 232. (²) Inwards. Sec. 97.

(³) Wrongfully claiming drawback. Sec. 123. Payment of debentures. Sec. 25.

Exportation.

Declaration as
to exportation
and right to
drawback.

Name of person
entitled to be
declared.

Payment within
two years.

Warehouse or
debenture
goods not ex-
ported, or if re-
landed, or car-
ried to Guern-
sey, &c., with-
out entry,
forfeited.

Drawbacks of
duties on wine
allowed for offi-
cers in the navy.

131. The person entitled to any drawback on any goods duly exported, or his agent duly authorized by him for that purpose shall make and subscribe a declaration upon the debenture that the goods mentioned therein have been actually exported, and have not been relanded, and are not intended to be relanded, in any part of the United Kingdom, and that such person at the time of entry and shipping was and continued to be entitled to the drawback thereon, and the name of such person shall be stated in the debenture, which shall then be delivered to such person or his agent, and the receipt of such person on the debenture, countersigned by the holder of such debenture, if the same shall have been transferred in the meantime, shall be the discharge for such drawback when paid.

132. No debenture for any drawback allowed upon the exportation of any goods shall be paid after the expiration of two years from the date of the shipment of such goods.

133. If any goods which have been cleared to be exported for any drawback shall not be duly exported to parts beyond the seas, or shall be unshipped or relanded in any part of the United Kingdom (such goods not having been duly relanded or discharged as short-shipped under the care of the proper officers), or shall be carried to any of the Channel Islands (not having been duly entered, cleared, and shipped to be exported or carried directly to such Islands), the same shall be forfeited, together with any ship, boat, or craft which may have been used in so unshipping, relanding, landing, or carrying such goods from the ship in which the same were shipped for exportation; and the master of such ship, and any person by whom or by whose orders or means such goods shall have been so unshipped, relanded, landed, or carried, or who shall aid, assist, or be concerned therein, shall forfeit a sum equal to treble the value of such goods, or a penalty of one hundred pounds, at the election of the Commissioners of Customs.

134. A drawback of the whole of the duties of Customs shall be allowed for wine intended for the consumption of officers of Her Majesty's Navy on board such of Her Majesty's ships in actual service as they shall serve in, not exceeding the quantities

of wine in any one year for the use of such officers hereinafter *Exportation.* respectively mentioned; that is to say,

	Galls.
For every Admiral	1,260
„ Vice-Admiral	1,050
„ Rear-Admiral	840
„ Captain of the 1st and 2d rate	630
„ Captain of the 3d, 4th, and 5th rate	420
„ Captain of an inferior rate	210
„ Lieutenant and other commanding officer, and for Marine officer, Master, Purser, and Surgeon	105

unless such wine be taken from the warehouse without payment of duty under such regulations as the Commissioners of Customs may direct: Provided always, that in either case such wine be shipped at ports approved of by the Commissioners of Customs.⁽¹⁾

135. The person entering such wine, and claiming the drawback for the same, shall state in the entry and declare on the debenture the name of the officer for whose use such wine is intended, and of the ship in which he serves; and such wine shall be delivered into the charge of the officers of the Customs at the port of shipment, to be shipped under their care; and the commanding officer for the time being of such ship, having certified upon the debenture the receipt of such wine into his charge, and the proper officer of the Customs having certified to the shipment on the debenture, the same shall be computed and passed, and be delivered to the person entitled to receive the same.

Persons entering such wine for drawback to declare the name and rank of officer claiming the same.

136. If any such officer shall leave the service, or be removed to another ship, the officers of the Customs may permit the transfer of any such wine from one officer to another, as part of his proportion, whether on board the same ship or another, or the transshipment from one ship to another for the same officer, or the relanding and warehousing for future reshipment; and the officers of Customs at any port may receive back the duties for any of such wine, and deliver the same for home use; but if any of such wine be not laden on board the ship for which the same

Officers leaving the service, &c. such wine permitted to be transferred to others.

⁽¹⁾ See Commentary on this section.

Exportation. was intended, or be unladen from such ship without permission of the proper officer of Customs, the same shall be forfeited.

Pursers of Her Majesty's ships of war may ship tobacco for the use of crew free of duty, on giving bond.

137. The purser of any of Her Majesty's ships of war in actual service may enter and ship, at any port approved of by the Commissioners of Customs, in the proportions hereinafter mentioned, any tobacco there warehoused in his name, or transferred into his name for the use of the ship in which he shall serve, provided such purser shall deliver to the Collector or Comptroller of such port a certificate from the captain of such ship, stating the name of the purser, and the number of men belonging to the ship, and shall also give bond, with one sufficient surety, in treble the duties payable on the tobacco, that no part thereof shall be relanded without leave of the officers of Customs.

Purser removed from one ship to another may tranship tobacco with permission of collector.

138. If any purser shall be removed from one ship to another, the Collector or Comptroller of any port may permit the transshipment of the remains of any such tobacco, for the use of such other ship, upon due entry of such tobacco by such purser setting forth the time when and the port at which such tobacco was first shipped; and if any such ship shall be paid off, the Collector or Comptroller of the port may permit the remains of any such tobacco to be landed, and to be entered by the purser of such ship, either for payment of duties, or to be warehoused for the term of six months, for the supply of some other such ship, in like manner as any tobacco may be warehoused and supplied at any such port, or for payment of all duties within such six months; and all tobacco warehoused for the purpose of so supplying Her Majesty's ships of war shall be subject to the provisions of any Act in force relating to the warehousing of tobacco generally, as far as the same are applicable, and are not expressly altered by any of the provisions herein particularly made.

Limiting the quantity of tobacco.

139. No greater quantity of such tobacco shall be allowed to any ship of war than two pounds by the lunar month for each of the crew of such ship, nor shall any greater quantity be shipped at any one time than sufficient to serve the crew of such ship for six months after such rate of allowance; and the Collector or Comptroller of the port at or from which any such tobacco shall

be supplied to any such ship, or landed from any such ship, or transferred from one such ship to another, shall transmit a particular account thereof to the Commissioners of Customs, in order that a general account may be kept of all the quantities supplied to and consumed on board each of such ships under the allowances before granted. *Exportation.*

As to the shipping of stores for the use of foreign-bound vessels.⁽¹⁾

Shipping of Stores.

140. The master of every ship of the burden of fifty tons or upwards, departing from any port in the United Kingdom upon a voyage to parts beyond the seas, the duration of which out and home shall not be less than forty days, shall, upon due application made by him, and upon such terms and conditions as the Commissioners of Customs may direct, receive from the searcher an order for the shipment of such stores as may be required and allowed by the Collector or Comptroller for the use of such ship, with reference to the number of the crew and passengers on board, and the probable duration of the voyage on which she is about to depart;⁽²⁾ and all demands for such stores shall be made in such form and manner as such Collector or Comptroller shall require, and shall be signed by the master or owner of the vessel; and after such stores are duly shipped the master or his agent shall make out an account of the stores so shipped, together with any other stores then already on board, and the same, when presented to the searcher, signed by him, and countersigned by the Collector or Comptroller, shall be the victualling bill;⁽³⁾ and no stores shall be shipped for the use of any ship, nor any articles taken on board any ship be deemed to be stores, except such as shall be borne upon such victualling bill.⁽⁴⁾ Victualling bill for stores.

(¹) Stores inwards. Sec. 70.

(²) The duration includes the whole voyage out and home.

(³) A notification on the Victualling Bill is deemed to be a sufficient clearance in respect of ships departing in ballast. Sec. 145.

(⁴) Stores found on board not endorsed on Victualling Bill, forfeited. Sec. 146.

Exportation

*Clearance of Ship
out.*

If inward cargo reported for exportation, copy of report thereof to be delivered to the searcher.

As to the clearance of ships outwards.

141. If there be on board any ship any goods, being part of the inward cargo reported for exportation in the same ship,⁽¹⁾ the master shall, before clearance outwards of such ship from any port in the United Kingdom, deliver to the searcher a copy of the report inwards of such goods, certified by the Collector or Comptroller; and if such copy be found to correspond with the goods so remaining on board, the searcher shall sign the same, to be filed with the certificates or cockets, if any, and victualling bill of the ship.

Before clearance master to deliver content.

142. Before any ship shall be cleared outwards from⁽²⁾ the United Kingdom with any goods shipped or intended to be shipped on board the same,⁽³⁾ the master shall deliver a Content of such ship to the searcher, in the form or to the effect following, and containing the several particulars therein required, as far as the same can be known by him, and shall make and subscribe the declaration at the foot thereof,⁽⁴⁾ in the presence of the Collector or Comptroller, and shall answer such questions as shall be demanded of him concerning the ship, the cargo, and the intended voyage, by such Collector or Comptroller :⁽⁵⁾

(1) Inward cargo intended for exportation in the same ship must be so reported inwards. See Form of Report, page 33.

(2) Clearance coastwise. Sec. 156.

(3) If any goods enumerated in content be not shipped, or duly made "short-shipped" by the officers, they are forfeited; or if any goods be found on board not enumerated, the master is liable to a penalty of £5 per package. Sec. 143.

(4) Sec. 119.

(5) False declarations and answers. Sec. 198.

CONTENT.

Port of			Exportation.			
Ship's Name	Tonnage and Number of Guns.		If British, Port of Registry; if Foreign, the Country.	Number of Crew.	Name of Master.	Number of Passengers or Troops.
	Tons.	Guns.				
<i>Here state the Particulars according to the above Headings.</i>						

Warehoused Goods.	Drawback and Restricted Goods.	British Goods and Foreign Goods free of Duty, and Foreign Goods not for Drawback.
<i>If any, state Marks and Numbers of Packages.</i>	<i>If any, state Description of Packages.</i>	<i>If any, state "Sundry Packages containing" either Class, as the Case may be.</i>
<i>If any Goods shall have been reported inwards for Exportation in such</i>	<i>Ship, they must be so</i>	<i>stated.</i>

Cleared

Examined

(Signed) _____

Searcher.

Dated

I do declare, that the above Content is a true account of all Goods shipped or intended to be shipped on board the above-named Ship, and correct in all other particulars.

(Signed) _____

Master

Signed and declared, this
before me,

Day of

(Signed) _____

Collector or Comptroller.

Exportation. and before clearance the certificates, if any, shall be delivered to the searcher, who shall compare the shipping bills with the content and certificates, if any, and file such certificates, copy of report inwards, if any, of goods reported for exportation in such ship, and the victualling bill, with a label attached and sealed thereto, in the form or to the effect following :

Before clearance
certificates to be
delivered to
searcher.

(Seal.)

Number of Certificates (*Numbers in Figures*).

Ship (*Name of Ship*).

Master (*Name of Master*).

(*Date of Clearance*.)

(*Signature*.)

Searcher.

(*Signature*.)

Collector or Comptroller.

Label signed,
authority to de-
part.

and such label, when filled up, and signed by the searcher and the collector or comptroller, shall, as to the goods comprised therein,⁽¹⁾ be the clearance and authority for the departure of the ship; and the shipper of any British goods and such goods as were previously chargeable with duty at value⁽²⁾ laden in such ship shall, under a penalty of twenty pounds, deliver to the broker, agent, or other person clearing such ship, a duplicate of the bill of lading thereof at the time of signing thereof, with an endorsement thereon of the quantity and value of such goods, and such broker, agent, or other person as aforesaid shall, within fourteen days after such final clearance of the ship, sign and deliver to the collector or comptroller of Customs a full and accurate list of all such goods, with the quantities and value thereof, from the bills of lading so delivered to him, with such bill or bills of lading annexed thereto. and on failure thereof such broker, agent, or other person as aforesaid shall forfeit the sum of twenty pounds, and for this purpose the duplicate bill of lading so required shall not be liable to any stamp duty.⁽³⁾

Goods on board
to correspond
with content.

143. If any goods liable to duty on importation, or taken from the warehouse to be exported, or entitled to drawback on exportation, which are enumerated in the content of any ship, shall not be duly shipped before the departure of such ship, or shall not be

⁽¹⁾ Goods not included forfeited. Sec. 146. Goods included not on board penalty. *ib.*

⁽²⁾ As to Liverpool, &c. Sec. 125.

⁽³⁾ Distinguished in the Tariff thus *.

duly certified by the proper officer as short-shipped, such goods shall be forfeited; or if any such goods shall be taken on board such ship, not being enumerated in such content, the master of such ship shall forfeit the sum of five pounds in respect of every package of such goods; and if any goods duly shipped on board such ship shall be landed at any other place than that for which they shall have been cleared, unless otherwise accounted for to the satisfaction of the Commissioners of Customs, the master of such ship shall forfeit a sum equal to treble the value of the goods so landed.

Exportation.

144. If any goods shall be shipped, put off, or water-borne to be shipped, without being duly cleared, or otherwise contrary to the provisions of this Act, the same shall be liable to forfeiture.⁽¹⁾

Goods shipped contrary to provisions forfeited.

145. Before any ship shall depart in ballast from the United Kingdom for parts beyond the seas, not having any goods on board, except stores from the warehouse borne upon the victualling bill of such ship, nor any goods reported inwards for exportation in such ship, the collector or comptroller shall clear such ship in ballast, by notifying such clearance and the date thereof on the victualling bill,⁽²⁾ and deliver the same to the master of such ship as the clearance thereof; and the master of such ship shall answer to the collector or comptroller such questions touching her departure and destination as shall be demanded of him; and ships having only passengers with their baggage on board, and ships laden only with chalk or slate, shall be deemed to be in ballast; and if any such ship, whether laden or in ballast, shall depart without being so cleared, if she have any such stores on board, the master shall forfeit and pay the sum of one hundred pounds.

In ballast.

Clearance notified on victualling bill.

Master to answer questions.

Ships, whether laden or in ballast to clear out.

Penalty 100l.

As to the boarding of ships after clearance outwards.

Boarding of Ships.

146. Any officers of Customs may go on board any ship after clearance outwards within the limits of any port in the United Kingdom,⁽³⁾ or within four leagues of the coast thereof, and may demand the ship's clearance; and if there be any goods on board

Officers may board any ship after clearance.

Goods on board, and without

(1) General provision. Sec. 119. (2) Victualling bill. Sec. 140.

(3) Inwards. Sec. 48. Coastwise. Sec. 158. See also Sec. 219. And persons obstructing. Sec. 229.

Exportation. in respect of which certificates are required, not contained in such certificates, or any stores not endorsed on the victualling bill, such goods or stores shall be forfeited; and if any goods contained in such certificates be not on board, the master shall forfeit the sum of twenty pounds for every package or parcel of goods contained in such certificates, and not on board.

If officers put seals upon stores from the warehouse outwards, and such seals be broken, master to forfeit 20*l*.

147. If any officer of Customs shall place any lock, mark, or seal upon any goods taken from the warehouse without payment of duty as stores on board any ship or vessel departing from any port in the United Kingdom, and such lock, mark, or seal be wilfully opened, altered, or broken, or if any such stores be secretly conveyed away, either while such ship or vessel remains at her first port of departure, or at any other port or place in the United Kingdom, or on her passage from one such port or place to another, before the final departure of such ship or vessel on her foreign voyage, the master shall forfeit the sum of twenty pounds.⁽¹⁾

Ships not bringing to at stations, penalty 20*l*.

148. If any ship departing from any port in the United Kingdom shall not bring to at such stations as shall be appointed by the Commissioners of Customs for the landing of officers from such ships, or for further examination previous to such departure, the master of such ship shall forfeit the sum of twenty pounds.⁽²⁾

Time of exportation and departure defined.

149. The time at which any goods shall be shipped on board any export ship shall be deemed to be the time of exportation of such goods, and the time of the last clearance of any ship shall be deemed to be the time of departure of such ship.⁽³⁾

Goods prohibited by proclamation.

150. The following goods may, by proclamation or order in Council, be prohibited either to be exported or carried coastwise:⁽⁴⁾ arms, ammunition, and gunpowder, military and naval stores, and any articles which her Majesty shall judge capable of being converted into or made useful in increasing the quantity of military or naval stores, provisions, or any sort of victual which may be used as food by man, and if any goods so prohibited shall be exported from the United Kingdom or carried coastwise, or be water-borne to be so exported or carried, they shall be forfeited.⁽⁵⁾

Forfeiture.

⁽¹⁾ Stores inwards. Sec. 48.

⁽²⁾ Inwards. Sec. 47.

⁽³⁾ Importation and arrival. Sec. 42.

⁽⁴⁾ Prohibitions inwards. Sec. 45.

⁽⁵⁾ Sec. 209.

*As to the coasting trade of the United Kingdom.*IV.
*Coasting
Trade.*

151. All trade by sea from any one part of the United Kingdom to any other part thereof shall be deemed to be a coasting trade, and all ships while employed therein shall be deemed to be coasting ships, and no part of the United Kingdom, however situated with regard to any other part, shall be deemed in law, with reference to each other, to be parts beyond the seas; and if any doubt shall at any time arise as to what or to or from what parts of the coast of the United Kingdom shall be deemed a passage by sea, the Commissioners of the Treasury may determine and direct in what cases the trade by water from one port or place in the United Kingdom to another of the same shall or shall not be deemed a trade by sea within the meaning of this or any Act relating to the Customs.

All trade by sea from one part of the United Kingdom to another to be deemed coastwise, and no part to be deemed beyond the sea.

152. No goods or passengers shall be carried coastwise from one part of the United Kingdom to another, except in British ships.⁽¹⁾

Coasting trade of United Kingdom.

153. No goods shall be carried in any coasting ship, except such as shall be laden to be so carried at some port or place in the United Kingdom, and no goods shall be laden on board any ship to be carried coastwise until all goods brought in such ship from parts beyond the seas shall have been unladen; and if any goods shall be taken into or put out of any coasting ship at sea or over the sea, or if any coasting ship shall touch at any place over the sea, or deviate from her voyage, unless forced by unavoidable circumstances, or if the master of any coasting ship which shall have touched at any place over the sea shall not declare the same in writing under his hand to the collector or comptroller at the port in the United Kingdom where such ship shall afterwards first arrive, the master of such ship shall forfeit the sum of one hundred pounds.

Coasting ship confined to coasting voyage.

154. If any goods shall be unshipped from any ship arriving coastwise, or be shipped or water-borne to be shipped to be carried coastwise, on Sundays or holidays, or unless in the presence or with the authority of the proper officer of the Customs, or unless at such times and places as shall be appointed or approved by

Times and places for landing and shipping.

(1) Channel Islands. Sec. 191. British possessions. Sec. 163.

*Coasting
trade.*

Master of coast-
ing vessel to
keep a cargo
book.

him for that purpose, the same shall be forfeited, and the master of the ship shall forfeit the sum of fifty pounds.

Penalty for false
entries in such
book.

155. The master of every coasting ship shall keep or cause to be kept a cargo-book, stating the names of the ship, the master, and the port to which she belongs, and of the port to which she is bound on each voyage, and shall at every port of lading enter in such book the name of such port, and an account of all goods there taken on board such ship, stating the descriptions of the packages and the quantities and descriptions of the goods therein, and the quantities and descriptions of any goods stowed loose, and the names of the respective shippers and consignees, so far as such particulars are known to him, and shall at every port of discharge of such goods note the respective days on which the same or any of them are delivered out of such ship, and the respective times of departure from every port of lading and of arrival at every port of discharge; and such master shall, on demand, produce such book for the inspection of any officer of Customs, who shall be at liberty to make any note or remark therein; and if upon examination any package entered in the cargo-book as containing foreign goods shall be found not to contain such goods, such package, with its contents, shall be forfeited, or if any package shall be found to contain foreign goods not entered in such book, such goods shall be forfeited; and if such master shall fail correctly to keep such cargo-book, or to produce the same, or if at any time there be found on board such ship any goods not entered in such book as laden, or any goods noted as delivered, or if any goods entered as laden or any goods not noted as delivered be not on board, the master of such ship shall forfeit the sum of twenty pounds.

Account previ-
ous to departure
to be delivered
to collector.

156. Before any coasting ship shall depart from the port of lading, an account, with a duplicate thereof, in the form or to the effect following, and signed by the master, shall be delivered to the collector or comptroller; and the collector or comptroller shall retain the duplicate, and return the original account, dated and signed by him; and such account shall be the clearance of the ship for the voyage, and the transire or pass for the goods expressed therein; and if any such account be false, the master shall forfeit the sum of twenty pounds.

Port of TRANSIRE.				
Ship's Name.	Tonnage.	Port of Registry.	Master's Name.	Whither bound.
<i>Here state the particulars according to the above Headings.</i>				

*Coasting
trade.*

Foreign Goods, distinguishing Ware- housed Goods removed under Bond	Quantities of Corn, Grain, Meal, Flour, or Malt.	Goods liable to Duty of Excise or entitled "No other Goods," to Drawback thereof, as the Case may be.	Here state "Sundry other Goods," or as the Case may be.
<i>Here state the particulars according to the above headings.</i>			

(Signed)

Cleared the

Day of

185 .

Master.

(Signed)

Collector or Comptroller.

Provided always, that the Commissioners of the Customs may, whenever it shall appear to them expedient, permit general transires to be given, under such regulations as they may direct, for the lading and clearance and for the entry and unlading of any coasting ship and goods, and the same may be revoked by notice in writing under the hand of the proper officer delivered to the master or owner of any ship, or any of the crew on board.

Commissioners
may grant gene-
ral transires.

Coasting trade.

Transire to be delivered in twenty-four hours after arrival.
Inland revenue goods.

Goods from the Isle of Man.

Penalty of illegal unloading.

Forfeiture of goods.

Officer may go on board and examine any coasting ship.

157. Within twenty-four hours after the arrival of any coasting ship at the port of discharge, and before any goods be unladen, the transire, with the name of the place or wharf where the lading is to be discharged noted thereon, shall be delivered to the Collector or Comptroller, who shall note thereon the date of delivery; and if any of the goods on board such ship be subject to any duty of Excise, the same shall not be unladen without the authority or permission of the proper officer of Excise; and if any goods on board any coasting ship arriving in Great Britain or Ireland from the Isle of Man shall be the growth or produce of that Isle, or manufactures of that Isle from materials the growth or produce thereof, or from materials not subject to duty in Great Britain or Ireland, or from materials upon which the duty shall have been paid and not drawn back in Great Britain or Ireland, the same shall not be unladen until a certificate be produced to the Collector or Comptroller, from the Collector or Comptroller at the port of shipment, that proof had there been made in manner required by law that such goods were of such growth, produce, or manufacture, as the case may be;⁽¹⁾ and if any goods shall be unladen contrary hereto the master shall forfeit the sum of twenty pounds; and if any goods shall be laden on board any ship in any port or place in the United Kingdom, and carried coastwise, or having been brought coastwise shall be unladen in any such port or place contrary to this or any other Act relating to the Customs, such goods shall be forfeited.

158. Any officer of the Customs may go on board⁽²⁾ any coasting ship in any port or place in the United Kingdom, or at any period of her voyage search such ship, and examine all goods on board, and all goods then lading or unloading, and demand all documents which ought to be on board such ship; and the collector or comptroller may require that all or any such documents shall be brought to him for inspection, and the master of any ship refusing to produce such documents, on demand, or to bring the same to the Collector or Comptroller when required, shall forfeit and pay the sum of twenty pounds.

⁽¹⁾ Certificate. Sec. 349.

⁽²⁾ Inwards. Sec. 48. Outwards. Sec. 146, and see sec. 219. Persons obstructing. Sec. 229.

*As to particular provisions relating to the Channel Islands and
British Possessions abroad.*

V.
British Possessions.

159. Gunpowder, ammunition, arms, or utensils of war, except from the United Kingdom or any British possession, and base or counterfeit coin, are hereby absolutely prohibited to be imported or brought, either by sea or inland carriage or navigation, into the British possessions in America and the Mauritius.

Absolute prohibitions.

Sugar (not being refined in bond in the United Kingdom) and molasses until fifth of July one thousand eight hundred and fifty-four, and rum, such sugar, molasses, and rum being the produce or manufacture of any British possession within the limits of the East India Company's Charter (except as hereinafter provided) or being of foreign produce or manufacture, are hereby prohibited to be imported or brought into any of the British possessions in the Continent of South America or in the West Indies (the Bahama or Bermuda Islands not included), or into the Mauritius, except to be warehoused for exportation only, and may also by her Majesty's Order in Council be prohibited to be imported into the Bahama and Bermuda Islands; and if any goods shall be imported or brought into any of the British possessions in America or the Mauritius, contrary hereto, the same shall be forfeited: Provided always, that it shall be lawful to import into any British possessions in the West Indies and South America, and into the Mauritius, any sugar or rum the produce of any British possession within the limits of the East India Company's Charter into which the importation of sugar or rum the produce of any foreign country, or of any British possession into which foreign sugar or rum may be legally imported, has been prohibited: provided that no such sugar or rum shall be so entered unless the master of the importing ship shall deliver to the proper officer of Customs a certificate of origin under the hand of the proper officer at the place where the same shall have been taken on board, stating the name of the district in which such sugar or rum was produced, the quantity and quality or strength thereof, as the case may be, the number and denomination of the packages containing the same, and the name of the ship in which they were laden, and of

Restrictions.

Sugar and rum may be imported into the British Possessions in the West Indies and South America, and the Mauritius, in certain cases.

British Possessions.

the master thereof, and of the officer giving the same; the shipper of such sugar or rum shall likewise certify that there had been produced a certificate under the hand and seal of the collector or assistant collector of the Land or Customs revenue of the district within which such sugar and rum was produced, that such sugar or rum was the produce of such district, and that the importation into such district of foreign sugar and rum, or sugar and rum the growth of any British possession into which any foreign sugar or rum can be legally imported, is prohibited, and the master shall subscribe a declaration that such certificate was received by him at the place where the goods were taken on board, and that they are the goods therein mentioned.⁽¹⁾

Foreign reprints of books under copyright prohibited.

160. Any books wherein the copyright shall be subsisting, first composed or written or printed in the United Kingdom, and printed or reprinted in any other country, shall be and are hereby absolutely prohibited to be imported into the British possessions abroad: Provided always, that no such books shall be prohibited to be imported as aforesaid unless the proprietor of such copyright, or his agent, shall have given notice in writing to the Commissioners of Customs that such copyright subsists, and in such notice shall have stated when the copyright will expire; and the said Commissioners shall cause to be made, and to be publicly exposed at the several ports in the British possessions abroad, from time to time, printed lists of books⁽²⁾ respecting which such notice shall have been duly given, and all books imported contrary thereto shall be forfeited; but nothing herein contained shall be taken to prevent Her Majesty from exercising the powers vested in Her by the Tenth and Eleventh Victoria, Chapter Ninety-five, intituled "An Act to amend the Law relating to the "Protection in the Colonies of Works entitled to Copyright in "the United Kingdom," to suspend in certain cases such prohibition.

Foreign manufactures with British marks.

161. If any articles of foreign manufacture, and any packages of such articles, bearing any names, brands, or marks being or purporting to be the names, brands, or marks of manufacturers

⁽¹⁾ Certificate. Sec. 178.

⁽²⁾ United Kingdom. Sec. 44 and 46.

resident in the United Kingdom, shall be imported into any of the British possessions abroad, the same shall be forfeited.

British Possessions.

162. All sugar and molasses, until the fifth of July one thousand eight hundred and fifty-four, and rum (although the same may be of British plantations), exported from any of the British possessions in America into which the like goods of foreign production can be legally imported, shall, upon subsequent importation from thence into any of the British possessions in America or the Mauritius into which such goods being of foreign production cannot be legally imported, or into the United Kingdom, be deemed to be of foreign production, and shall be liable on such importation respectively to the same duties or the same forfeitures as articles of the like description being of foreign production would be liable to, unless the same shall have been duly warehoused, and exported from the warehouse direct to such other British possession, or to the United Kingdom, as the case may be.

Sugar, &c., though British, deemed Foreign in certain cases.

163. No goods or passengers shall be carried from one part of any British possession in Asia, Africa, or America to another part of the same possession, except in British ships.⁽¹⁾

Coasting trade of the British Possessions.

164. The master of every ship arriving in any of the British possessions in America or the Channel Islands, whether laden or in ballast, shall come directly, and before bulk be broken, to the Custom House for the port or district where he arrives, and there make a report in writing to the proper officer of Customs, in the same form and manner as herein-before provided on the arrival of any ship in the United Kingdom, so far as the same may be applicable;⁽²⁾ and if any goods be unladen from any ship before such report be made, or if the master fail to make such report, or make an untrue report, or do not truly answer the questions demanded of him, he shall forfeit the sum of fifty pounds, and if any goods be not reported such goods shall be forfeited.⁽³⁾

Ship and cargo to be reported on arrival. Particulars of report.

Penalty for false report.

165. The master of every ship bound from any British possessions abroad, except the territories subject to the Government

Entry outwards of ship or cargo.

⁽¹⁾ Regulations for British Possessions. Secs. 327 to 331.

⁽²⁾ Sec. 50.

⁽³⁾ United Kingdom. Sec. 51.

British Possessions.

of the Presidencies of Bengal, Madras, and Bombay, shall deliver to the proper officer of Customs an entry outwards under his hand of such ship, and also subscribe and deliver to such officer a content of the cargo of such ship, if any, or state that she is in ballast, as the case may be, and answer such questions concerning the ship, cargo, if any, and voyage, as shall be demanded of him in the same manner, as nearly as may be, as is prescribed to be observed on the entry and departure of any ship from the United Kingdom,⁽¹⁾ and thereupon the proper officer shall give to the master a certificate of the clearance of such ship for her intended voyage;⁽²⁾ and if the ship shall depart without such clearance, or if the master shall deliver a false content, or shall not truly answer the questions demanded of him, he shall forfeit the sum of fifty pounds.⁽³⁾

Penalty for not clearing 50*l*.

Entry of goods Inwards and outwards.

166. Any person entering goods shall deliver to the proper officer a bill of entry thereof, containing the name of the ship and of the master, and of the place to or from which bound, and the particulars of the quality and quantity of the goods, and the packages containing the same, stating whether such goods be the produce of the British possessions in America or not.⁽⁴⁾ and the proper officer shall thereupon grant his warrant for the lading or unlading of such goods.

Entry of goods to be laden or unladen.

167. No goods shall be laden or water-borne to be laden on board any ship, or unladen from any ship, in any of the British possessions in America or in the Channel Islands, until due entry shall have been made of such goods, and warrant granted for the lading or unlading of the same; and no goods shall be so laden or water-borne or so unladen in the said Channel Islands, except at some place at which an officer of the Customs is appointed to attend the lading and unlading of goods, or at some place for which a sufferance shall be granted by the proper officer of Customs for the lading and unlading of such goods, and in the presence or with the permission of such officer; but the Commissioners of Customs may make such regulations for the carrying coast-

Regulations inwards and outwards.

Regulations coastwise.

⁽¹⁾ Sec. 142.

⁽²⁾ Sec. 77.

⁽³⁾ Forfeiture of ships in Channel Islands. Sec. 205.

⁽⁴⁾ Treasury orders in respect of certificates of production. Sec. 78.

wise of any goods, or for the removing of any goods for shipment in the said Islands, as to them shall appear expedient; and all goods laden, water-borne, or unladen contrary hereto, or to any regulations to be so made, shall be forfeited.⁽¹⁾

British Possessions.

Forfeiture.

168. No goods shall be stated in such certificate of clearance of any ship from any British possessions to be the produce of such possession, unless such goods shall have been so expressed in the entry outwards of the same; and all goods not expressly stated in such certificate of clearance to be the produce of such possession shall, at the place of importation in any other such possession, or in the United Kingdom, be deemed to be of foreign production.⁽²⁾

Goods not stated to be produce of British Possession to be deemed of foreign production.

169. Where there is no officer of Customs, the principal officer in the Civil Service of Her Majesty, or his representative, shall be deemed to be the proper officer for the performance of all such duties with respect to such goods as are hereby required to be performed by the collector or other officer of Customs.

If no officer of Customs resident at the port of shipment, certificate by whom to be granted.

170. Before any clearing officer permits any ship, wholly or in part laden with timber or wood goods, to clear out from any British port in North America or in the Settlement of Honduras for any port in the United Kingdom, at any time after the first day of September or before the first day of May in any year, he shall ascertain that the whole of the cargo of such ship is below deck, and shall give the master of such ship a certificate to that effect; and no master of any ship so laden shall sail from any of the ports aforesaid for any port of the United Kingdom, at any such time as aforesaid, until he has obtained such certificate from the clearing officer.

Clearing officers to certify that cargo is below deck.

171. No master of any ship in respect of which such certificate as aforesaid has been obtained shall place, or permit or cause to be placed or remain, upon or above the deck of such ship, any part of the cargo thereof, until such ship has arrived at the port of her destination: Provided always, that if the master of any such ship consider that it is necessary, in consequence of the springing a leak or of other damage received or apprehended during the

Captains of ships not to sail without certificate.

No part of the cargo to be placed on deck.

Proviso for removal of cargo in cases of leakage.

⁽¹⁾ Secs. 199 to 204.

⁽²⁾ Imports into United Kingdom without certificates deemed foreign. Sec. 78.

British Possessions.

Stores not cargo.

Penalty for default.

Dues in Canada on American boats to be the same as in America on British boats.

Certain produce of the state of Maine to be treated as produce of New Brunswick.

voyage, to remove any portion of the cargo upon deck, he may remove or cause to be removed upon the deck of such ship so much of the cargo, and may permit the same to remain there for such time, as he considers expedient; provided also, that the store spars or other articles necessary for the ship's use shall not be taken to be the cargo for the purposes of this Act.

172. If any master of any ship for which such certificate as aforesaid is required sails or attempts to sail without having obtained such certificate, or places or permits, or causes to be placed or to remain or be, upon or above the deck of such ship, any part of the cargo thereof, except in the cases in which the same is not hereby forbidden, he shall for every offence forfeit and pay any sum not exceeding one hundred pounds.

173. The same tonnage duties shall be paid upon all ships or boats of the United States of America importing any goods into either of the provinces of Upper or Lower Canada as are or may be for the time being payable in the United States of America on British vessels or boats entering the harbours of the State from whence such goods shall have been imported.

174. The treaty concluded between Her Majesty and the United States of America, dated the ninth day of August in the year one thousand eight hundred and forty-two, stipulates that all the produce of the forest in logs, lumber, timber, timber boards, staves, or shingles, or of agriculture, not being manufactured, grown on any of those parts of the State of Maine watered by the river Saint John or by its tributaries, of which fact reasonable evidence shall, if required, be produced, shall have free access into and through the said river and its said tributaries, having their source within the State of Maine, to and from the seaport at the mouth of the river Saint John, and to and round the falls of the said river, either by boats, rafts, or other conveyance, and that when within the province of New Brunswick the said produce shall be dealt with as if it were the produce of the said province; and it being the intention of the high contracting parties to the said treaty that the aforesaid produce should be dealt with as if it were the produce of the province of New Brunswick, the produce in the said recited

treaty, and herein-before described shall, so far as regards all laws relating to duties, navigation, and Customs in force in the United Kingdom or in any of Her Majesty's dominions, be deemed and taken to be and be dealt with as the produce of the province of New Brunswick: provided, that in all cases in which declarations and certificates of production or origin and certificates of clearance would be required in respect of such produce if it were the produce of New Brunswick similar declarations and certificates shall be required in respect of such produce, and shall state the same to be the produce of those parts of the State of Maine which are watered by the river Saint John or by its tributaries.

British Possessions.

175. Whenever a ship shall be cleared out from any port in Newfoundland or in any other part of her Majesty's dominions for the fisheries on the banks or coasts of Newfoundland or Labrador or the dependencies thereof, without having on board an article of traffic (except only such provisions, nets, tackle, and other things as are usually employed in and about the said fishery, and for the conduct and carrying on of the same), the master of any such ship shall be entitled to demand from the principal officer of Customs at such port a certificate under his hand that such ship hath been specially cleared out for the Newfoundland fishery, and such certificate shall be in force for the fishing season for the year in which the same may be granted, and no longer; and upon the first arrival in any port in the said colony of Newfoundland or its dependencies of any ship having on board any such certificate as aforesaid, a report thereof shall be made by the master of such ship to the principal officer of Customs at such port; and every ship having such certificate which has been so reported, and being actually engaged in the said fishery or in carrying coastwise, to be landed or put on board any ship engaged in the said fishery, any fish, oil, salt, provisions, or other necessaries for the use and purposes thereof, shall be exempt from all obligation to make an entry at or obtain any clearance from any Custom House at Newfoundland, upon arrival or departure from any of the ports or harbours of the said colony or its dependencies, during the continuance of the

Newfoundland fishing certificate in lieu of clearance during fishing season.

British Possessions.

At the end of the season the certificate to be delivered up. Ships trading to forfeit certificate.

fishing season for which such certificate may have been granted ; and previously to obtaining a clearance at the end of such season for any voyage at any of such ports the master of such ship shall deliver up the before-mentioned certificate to the principal officer of the Customs of such port : Provided always, that in case any such ship shall have on board during the time the same may be engaged in the said fishery any goods or merchandise whatsoever other than fish, seals, oil made of fish or seals, salt, provisions, and other things, being the produce of or usually employed in the said fishery, such ship shall forfeit the said fishing certificate, and shall thenceforth become and be subject and liable to all such and the same rules, restrictions, and regulations as ships in general are subject or liable to.

Certificate of production for sugar or spirits.

Declaration of grower.

Declaration of exporter.

176. Before any spirits or sugar, so long as any benefit attach to the distinction, shall be shipped for exportation in any British possession in America, or in the island of Mauritius, as being the produce of such possession or of the said Island, the proprietor of the estate on which such goods were produced, or his known agent, shall make and sign a declaration in writing before the proper officer of Customs at the port of exportation, or before one of Her Majesty's Justices of the Peace residing in or near the place where such estate is situated, declaring that such goods are the produce of such estate, and such declaration shall set forth the name of the estate, and the description and quantity of the goods, and the packages containing the same, with the marks and numbers thereon, and the name of the person to whose charge at the place of shipment they are to be sent ; and if any justice of the peace or other officer aforesaid shall subscribe his name to any writing purporting to be such a declaration, unless the person purporting to make the same shall actually appear before him, and shall declare to the truth of the same, such justice of the peace or officer aforesaid shall forfeit and pay for any such offence the sum of fifty pounds ; and the person entering and shipping such goods shall deliver such declaration to the proper officer of Customs, and shall make and subscribe a declaration before him that the goods which are to be shipped by virtue of such entry are the same as

are mentioned in such first-mentioned declaration; and the master of the ship in which such goods shall be laden shall, before clearance, make and subscribe a declaration before the proper officer of Customs, that the goods shipped by virtue of such entry are the same as are mentioned and intended in such first-mentioned declaration, to the best of his knowledge and belief; and thereupon the proper officer of Customs shall sign and give to the master a certificate of production, stating that proof has been made in manner required by law that such goods (describing the same) are the produce of such British possession or of the said Island, and setting forth in such certificate the name of the exporter and of the exporting ship, and of the master thereof, and the destination of the goods ;⁽¹⁾ and if any spirits or sugar be imported into any British possession in America, as being the produce of some other such possession or of the said Island, without such certificate of production, the same shall be forfeited.

British Possessions.

Declaration of the master.

177. Before any sugar or spirits, so long as any benefit attach to the distinction, shall be shipped for exportation in any British possession in America as being the produce of some other such possession, the person exporting the same shall in the entry outwards state the place of production, and refer to the entry inwards and landing of such goods, and shall make and subscribe a declaration before the proper officer of Customs to the identity of the same; and thereupon, if such goods shall have been duly imported with a certificate of production within twelve months prior to the shipping for exportation, the proper officer of Customs shall sign and give to the master a certificate of production founded upon and referring to the certificate of production under which such goods had been so imported, and containing the like particulars, together with the date of such importation.⁽²⁾

Certificate of production on re-exportation from another colony.

178. The shipper of any sugar the produce of some British possession within the limits of the East India Company's charter, about to be exported from any place in such possession, may go before the chief officer of Customs at such place, or, if there be

Certificate of production of East India sugar.

⁽¹⁾ Sec. 79.

⁽²⁾ Sec. 79.

British Possessions.

no such officer, before the principal officer of such place, or the judge or commercial resident of the district, and make and sign a declaration before him that such sugar was really and bona fide the produce of such British possession, to the best of his knowledge and belief; and such officer, judge, or resident is hereby required to grant a certificate thereof, stating therein the name of the ship in which the sugar is to be exported, and the destination of the same.⁽¹⁾

Certificate of production of wine.

179. The shipper of any wine, the produce of any British possession abroad, which is to be exported from thence, may go before the chief officer of Customs, and make and sign a declaration before him that such wine was really and bona fide the produce of such British possessions; and such officer is hereby required to grant a certificate thereof, stating therein the name of the ship in which the wine is to be exported, and the destination of the same.⁽²⁾

Certificate of Production of goods in Guernsey. &c.

180. Any person who is about to export from the Channel Islands to the United Kingdom, or to any of the British possessions in America or the Mauritius, any goods of the growth or produce of any of those islands, or any goods manufactured from materials which were the growth or produce thereof, or of the United Kingdom, or of materials duty-free in the United Kingdom, or whereupon the duty has been there paid and not drawn back, may go before any magistrate of such islands and make and sign before him a declaration that such goods, describing the same, are of such growth or produce, or of such manufacture, and such magistrate shall administer and sign such declaration; and thereupon the governor, lieutenant-governor, or commander-in-chief of the island from which the goods are to be exported shall, upon the delivery to him of such declaration, grant a certificate under his hand of the proof contained in such declaration, stating the ship in which and the port to which the goods are to be exported; and such certificate shall be the proper document to be produced at such port in proof that the goods mentioned therein are of the growth, produce, or manufacture of such island respectively.⁽³⁾

⁽¹⁾ Secs. 80 and 159.⁽²⁾ Sec. 84.⁽³⁾ Sec. 83.

181. The officer of Customs may go on board any ship in any port in any British possession in America, and rummage and search such ship for prohibited goods, and if there be any goods on board prohibited to be imported into such possession they shall be forfeited.

Coasting trade.

Officers may board ships.

182. All vessels, boats, goods, and other things which shall have been or shall hereafter be seized as forfeited in or near any of the British possessions abroad, under this or any Act relating to the Customs, shall be deemed and taken to be condemned, and may be dealt with in the manner directed by law in respect to vessels, boats, goods, and other things seized and condemned for breach of any such Act, unless the person from whom such vessels, boats, goods, and other things shall have been seized, or the owner of them, or some person authorized by him, shall, within one month from the day of seizing the same, give notice in writing to the person or persons seizing the same, or to the chief officer of Customs at the nearest port, that he claims the vessel, boat, goods, or other things, or intends to claim them.

Seized goods, if unclaimed for a month, to be condemned, and dealt with accordingly.

183. Whenever any penalty or forfeiture shall have been incurred in any of the British possessions abroad,⁽¹⁾ under this or any other Act relating to the Customs, such penalty or forfeiture shall and may be sued for, prosecuted, recovered, and disposed of in the Court of Record or of Vice Admiralty having jurisdiction in any British possession where the same may have been incurred or forfeited; but in case there shall be no such court at such British possession, such penalty or forfeiture shall and may be sued for, prosecuted, recovered, and disposed of in the Court of Record or of Vice Admiralty having jurisdiction in some British possession near to that where such penalty or forfeiture may have been incurred; and all such penalties and forfeitures shall be deemed to be sterling money of Great Britain, and paid accordingly.

Penalties and forfeitures, how to be recovered in British Possessions abroad.

184. All penalties and forfeitures recovered in the Channel Islands or in any of the British possessions abroad under this or any Act relating to the Customs shall be paid into the hands of

Application of penalties.

(1) Proceedings in Channel Islands, and jurisdiction. Secs. 263 and 277

British Possessions.

the Collector, Comptroller, or other proper officer of the port or place where the same shall have been recovered, and shall be divided, paid, and applied as follows; (that is to say,) after deducting the charges of prosecution from the produce thereof, one third of the net produce shall be paid to or for the use of Her Majesty, one third to the governor or commander-in-chief of the colony or plantation, and the other third part to the seizer, informer, and prosecutor; excepting such penalties and forfeitures as are from seizures made at sea by the commanders or officers of Her Majesty's ships of war duly authorized to make seizures, one moiety of which, first deducting the charges of prosecution from the gross produce, shall be paid as aforesaid to and for the use of Her Majesty, and the other moiety to the seizer, informer, and prosecutor, subject nevertheless to such distribution of the produce of the seizures so made at sea, as well with regard to the moiety hereinbefore granted to Her Majesty as with regard to the other moiety given to the seizer, informer, or prosecutor, as Her Majesty shall think fit to direct by Order in Council or by proclamation.⁽¹⁾

Bail may be given for seizures.

185. If any goods or any ship or vessel shall be seized as forfeited under this or any Act relating to the Customs, and detained in any of the British Possessions in America, the judge or judges of any court having jurisdiction to try and determine such seizures may, with the consent of the chief officer of Customs, order the delivery thereof, on security by bond, with two sufficient sureties, to be first approved by such officer, to answer double the value of the same in case of condemnation; and such bond shall be taken to the use of Her Majesty in the name of the officer of Customs in whose custody the goods or the ship or vessel may be lodged, and such bond shall be delivered and kept in the custody of the officer; and in case the goods or the ship or vessel shall be condemned, the value thereof shall be paid into the hands of such collector or officer, who shall thereupon cancel such bond,

Suits to be commenced in name of officers.

186. No suit shall be commenced for the recovery of any penalty or forfeiture in the Channel Islands or in any of the British Possessions abroad under this or any Act relating to the

⁽¹⁾ *Vide* Sec. 259.

Customs, except in the name of some officer of the Customs or navy, or other person employed as herein-before mentioned, or of Her Majesty's Advocate or Attorney General for the place where such suit shall be commenced ;⁽¹⁾ and if a question shall arise whether any person is an officer of the Customs or navy, or such other person as aforesaid, *vivà voce* evidence may be given of such fact, and shall be deemed legal and sufficient evidence.⁽²⁾

British Possessions.

187. No appeal shall be prosecuted from any decree or sentence of any of Her Majesty's courts in America touching any penalty or forfeiture imposed by this or any Act relating to the Customs, unless the inhibition shall be applied for and decreed within twelve months from the time when such decree or sentence was pronounced.

Limitation of appeals.

188. If any proceedings shall have been or shall hereafter be instituted in any court of Vice Admiralty or other competent court in any of Her Majesty's possessions abroad, against any ship, vessel, boat, goods, or effects, for the recovery of any penalty or forfeiture under this or any Act relating to the Customs, the execution of any sentence or decree restoring such ship, vessel, boat, goods, or effects to the claimant thereof, which shall be pronounced by the said Vice Admiralty Court in which such proceedings shall have been had, shall not be suspended by reason of any appeal which shall be prayed and allowed from such sentence ; provided that the party or parties appellate shall give sufficient security, to be approved of by the court, to render and deliver the ship, vessel, boat, goods, or effects concerning which such sentence or decree shall be pronounced, or the full value thereof, to be ascertained either by agreement between the parties, or, in case the said parties cannot agree, then by appraisement under the authority of the said court, to the appellant or appellants, in case the sentence or decree so appealed from shall be reversed, and such ship, vessel, boat, goods, or effects be ultimately condemned.

Security to abide an appeal from Vice Admiralty.

189. All persons authorised to make seizures under an Act passed in the fifth year of the reign of his Majesty King George the Fourth, intituled "An Act to amend and consolidate the

Persons authorized to seize under 5 Geo. 4, c. 113. to have benefit of this Act.

(¹) Sec. 263.

(²) Sec. 307.

British Possessions.

Application of penalties

“ laws relating to the abolition of the Slave Trade,” shall, in making and prosecuting any such seizures, have the benefit of all the provisions granted to persons authorized to make seizures under this Act; and all penalties and forfeitures created by the said Act, whether pecuniary or specific, shall (except in cases specially provided for by the said Act) go and belong to such persons as are thereby authorized to make seizures, in such shares, and shall and may be sued for and prosecuted, tried, recovered, distributed, and applied, in such and the like manner, and by the same ways and means, and subject to the same rules and directions, as any penalties and forfeitures incurred in Great Britain and in the British possessions in America respectively now go and belong to, and may be sued, prosecuted, tried, recovered, and distributed respectively in Great Britain or in the said possessions, under and by virtue of this Act.

Colonial laws repugnant to Acts of Parliament void.

190. All laws, byelaws, usages, or customs at this time, or which hereafter shall be in practice, or endeavoured or pretended to be in force or practice, in any of the British possessions in America, which are in anywise repugnant to this Act, or to any Act relating to the Customs or to trade and navigation, so far as the same shall relate to the said possessions, are and shall be null and void to all intents and purposes whatsoever.

Trade with the Channel Islands.

191. No goods or passengers shall be brought, imported, or carried into the United Kingdom from the Channel Islands,⁽¹⁾ nor shall any passengers or goods be exported or carried from the United Kingdom to the said Islands, nor shall any goods or passengers be carried from any one of the said Islands to any other of them, nor from one part of any of the said Islands to another part of the same, except in British ships;⁽²⁾ and if any goods or passengers be brought, imported, exported, or carried coastwise contrary hereto, all such goods shall be forfeited, and the master of the ship in which the same are so brought, imported, exported, or carried shall forfeit the sum of one hundred pounds.

Penalties.

Spirits from and to the Channel Islands in ships of fifty tons and casks of twenty gallons.

192. No spirits (except rum of the British plantations) shall be imported into or exported from the Channel Islands or any of

(¹) Pilots not required for ships laden with stone. 8 & 9 Vic. c. 86, sec. 45, Appendix p. xcvi.
 (²) As to United Kingdom. Sec. 152.

them, or be removed from any one to any other of the said Islands, or be carried coastwise from any one part to any other part of any one of the said Islands, or shall be shipped in order to be so removed or carried in any ship of less burden than fifty tons, nor in any cask or other vessel capable of containing liquids not being of the size or content of twenty gallons at the least; and all spirits imported, exported, removed, carried, shipped, or waterborne to be so shipped, removed, or carried, contrary hereto, shall be forfeited, together with the ship and any boat importing, exporting, removing, or carrying the same: (1) Provided always, that nothing herein contained shall extend to any spirits imported in glass bottles as part of the cargo, nor to any spirits being really intended for the consumption of the seamen and passengers during their voyage, and not being more in quantity than is necessary for that purpose, nor to any warehoused goods exported from the United Kingdom in ships of not less than forty tons burden, being regular traders to those Islands, (2) nor to any boat of less burden than ten tons, for having on board at any one time any foreign spirits of the quantity of ten gallons or under, such boat having a licence from the proper officer of Customs at either of the Islands of Guernsey or Jersey for the purpose of being employed in carrying commodities for the supply of the Island of Sark, which licence such officer of Customs is hereby required to grant without fee or reward; but if any such boat shall have on board at any one time any greater quantity of spirits than ten gallons, unless in casks or packages of the size and content of twenty gallons at the least, such spirits and boat shall be forfeited.

British Possessions.

Exception of spirits in glass bottles, or stores

Licensed boats of ten tons supplying Sark.

193. No tobacco, cigars, or snuff shall be imported into the Channel Islands (3) in ships of less than one hundred and twenty tons burden, nor unless in hogsheads, chests, or cases, each containing not less than two hundred pounds net weight of such tobacco or snuff, nor unless in packages each containing not less than one hundred pounds net weight of such cigars, such tobacco or snuff not being in any manner separated or divided within

Cigars, &c., may be imported into Channel Islands in packages of the same weight as may be imported into the United Kingdom.

(1) See also Secs. 212, 213 and 214.

(2) As to United Kingdom. Sec. 117.

(3) As to United Kingdom. Sec. 44.

British Possessions.

such package, except tobacco, cigars, or snuff from the United Kingdom, which may be imported from thence into the said Islands in ships of not less than fifty tons burden, or in ships regularly trading to those Islands not being of less than forty tons burden,⁽¹⁾ and in packages of the same weight and subject to the same provisions in and under which the like sort of goods may respectively be legally imported into the United Kingdom; and all cigars, tobacco, or snuff imported into the said Islands contrary hereto, or which shall be found or discovered to have been on board any ship or boat within one league of the coasts thereof, shall be forfeited, together with the ship or boat.

Malta deemed to be in Europe.

194. The Island of Malta and its dependencies shall be deemed to be in Europe.

VI.
Bonds and other securities.

As to Bonds and other Securities relating to the Customs.

All bonds and securities entered into valid.

195. All bonds and other securities entered into by any person or persons for the performance of any condition, order, or matter relative to the Customs or incident thereto shall be valid in law, and upon breach of any of the conditions thereof may be sued and proceeded upon in the same manner as any bond expressly directed or given by or under the provisions of any Act relating to the Customs; and all bonds relating to the Customs, or for the performance of any condition or matter incident thereto, shall be taken to or for the use of Her Majesty; and all such bonds, except such as are given for securing the due exportation of or payment of duty upon warehoused goods, may, after the expiration of three years from the date thereof, or from the time, if any, limited therein for the performance of the condition thereof, be cancelled, by or by the order of the Commissioners of Customs; and all bonds given under the provisions of this or any Act relating to the Customs by persons under twenty-one years of age shall be valid.

Bonds to be taken to the use of Her Majesty.

Bonds of minors valid.

How Bonds satisfied may be discharged.

196. If any bond given under the provisions of this or any Act relating to the Customs, or in respect of any matter under the control or management of the Commissioners of Customs,

⁽¹⁾ Sec. 117.

shall have been registered in the Court of Common Pleas in England, or in the office of the Registrar of Judgments in Ireland, and the condition of such bond shall have been satisfied, the Commissioners of Customs, by certificate under the hands of any two or more of them, may authorize the proper officer of the said Court or office of Registrar of Judgments, as the case may be, to enter up satisfaction on the record of such bond or obligation; and such certificate may be in the form or to the effect following:

*Bonds and
other
securities.*

This is to certify, that the following bond has been satisfied and cancelled.

Name or Names of the Obligor or Obligors.	Date of Bond.	Penalty.	Condition.	When registered

Given under our hands, this

day of

185

{ Commissioners of
Customs.

To the senior master or other proper officer of
the Court of the Common Pleas (if in England)
or to the Registrar of Judgments (if in Ireland),
(as the case may be).

And upon the receipt of such certificate such officer is required to enter up satisfaction accordingly, whereupon the bond or obligation shall be discharged, and the lands thereby affected shall be released and exonerated from all claims in respect thereof.

197. When any bond entered into under the provisions of this or any Act relating to the Customs, or for the performance of any condition, order, or matter incident or relative to the Customs, Exoneration of
estates of
obligors.

*Bonds and
other
securities.*

shall have been registered in the Court of Common Pleas in England, under the Act of the second year of the reign of Her present Majesty, chapter eleven, or in the office of the Registrar of Judgments in Ireland, under the Act of the seventh and eighth years of the reign of Her said Majesty, chapter ninety, and it shall be deemed necessary, in the discretion of the Commissioners of Customs, to exonerate the whole or any part of the lands of any obligor of such bond from liability in respect thereof, the Commissioners of Customs, by Certificate or Certificates under the hands of any two or more of them, may, first requiring the consent of any co-obligor, if they shall deem it necessary, exonerate and discharge such lands or any part thereof, as the case may require, and such certificate may be in the form or to the effect following :

Form of certificate of exoneration.

‘ BY a Bond or Obligation, bearing date the day
‘ of 18 , [*Name of Obligor seeking Exoneration*]
‘ of [*Residence and Description of Obligor*] became
‘ bound to Her Majesty, her Heirs and Successors, in the Sum of
‘ conditioned as therein mentioned ; and the said
‘ Bond was, on the day of 18 , duly recorded
‘ in the Court of Common Pleas [*if in England, or filed in the office*
‘ of the Registrar of Judgments, *if in Ireland*] in pursuance of
‘ the Act [*state the Act under which the bond was registered*].

‘ This is to certify, ‘ That all the Estate, Lands, Tenements,
‘ and Hereditaments, [*if the whole are to be discharged*] or [*here*
‘ *set out the particular Lands, Tenements, and Hereditaments*
‘ *exonerated, if part only are to be discharged, adding the*
‘ *following words*] being part of the Estate, Lands, Tenements,
‘ and Hereditaments, of the said [*Name of Obligor seeking*
‘ *exoneration*], are wholly exonerated and discharged from all
‘ claims of Her Majesty, her Heirs or Successors, or of the
‘ Commissioners of Customs on her or their behalf, in respect of
‘ such Bond or Obligation. Given under our hands, this
‘ day of 185 .

‘ (Signed) _ _ _ _ _

} Commissioners of Her
Majesty’s Customs

And the lands mentioned in such certificate or certificates shall thereupon be held wholly exonerated and discharged from all liability in respect of such bond or obligation, and every such certificate shall be accepted by all persons and in all courts as sufficient evidence of the exoneration of the lands therein described.

*Bonds
and other
securities.*

*Certificates to
be sufficient
evidence of
exoneration.*

As to making and signing false Declarations relating to the Customs, falsely answering Questions, and counterfeiting Documents.

VII.
*False
declarations.*

198. If any person shall make and subscribe any false declaration, or make or sign any declaration, certificate, or other instrument required by this Act to be verified by signature only, the same being false in any particular, or if any person shall make or sign any declaration made for the consideration of the Commissioners of Customs, on any application presented to them, the same being untrue in any particular; or if any person required by this or any other Act relating to the Customs to answer questions put to him by the officers of Customs shall not truly answer such questions; or if any person shall counterfeit, falsify, or wilfully use when counterfeited or falsified, any document required by this or any Act relating to the Customs, or by or under the directions of the Commissioners of Customs, or any instrument used in the transaction of any business or matter relating to the Customs, or shall fraudulently alter any document or instrument, or counterfeit the seal, signature, initials, or other mark of, or used by the officers of the Customs, for the verification of any such document or instrument, or for the security of goods, or any other purpose in the conduct of business relating to the Customs, or under the control or management of the Commissioners of Customs or their officers; every person so offending shall for every such offence forfeit the penalty of one hundred pounds.⁽¹⁾

*Making false
declarations.*

*Signing false
documents and
untruthfully answer-
ing questions.*

*Counterfeiting
and using false
documents.*

Penalty 100l.

(1) Secs. 52, 53.

VIII.
Smuggling.

*Restrictions on
Small Craft.*

Commissioners
may make
general regula-
tions for vessels
and boats not
exceeding one
hundred tons.

*As to the Restrictions on small Craft, and the Regulations for the
Prevention of Smuggling.*

199. The Commissioners of Customs may from time to time, by order under their hands, make such general regulations as they shall deem expedient in respect of vessels and boats not exceeding one hundred tons burden, for the purpose of prescribing, with reference to the tonnage, build, or description of such vessels or boats, the limits within which the same may be employed, the mode of navigation, the manner in which such vessels or boats shall be so employed, and, if armed, the number and description of arms, the quantity of ammunition, and such other terms particulars, conditions and restrictions as the said Commissioners may think fit, and also from time to time may revoke, alter, or vary such regulations; and the general regulations made under any former Act, and in force at the time of the passing of this Act, shall remain and continue in force until altered, varied, or revoked.

Vessels and
boats used con-
trary to regula-
tions, forfeited.

200. Every ship or boat which shall be used or employed in any manner contrary to the regulations prescribed by the Commissioners of Customs shall be liable to forfeiture, unless the same shall have been specially licensed by the Commissioners of Customs to be so used or employed, as next herein-after provided.

Commissioners
of Customs may
grant special
licences, on
terms.

201. The Commissioners of Customs may, if they shall so think fit, grant licences in respect of any vessels or boats not exceeding one hundred tons burden, upon such terms and conditions, and subject to such restrictions and stipulations, as in such licences mentioned, notwithstanding any general regulations made in pursuance of this Act, whether the said regulations shall be revoked or not; and if any vessel or boat so licensed shall not comply with the conditions imposed by or expressed in any such licence, or if such vessel or boat shall be found without having such licence on board, such vessel or boat shall be forfeited.

Commissioners
may revoke
licences.

202. The Commissioners of Customs may revoke, alter, or vary any licence or licences granted under any former Act, or which may hereafter be granted under this or any other Act relating to the Customs.

203. If any such vessel or boat shall be used in the importation, landing, removal, carriage, or conveyance of any uncustomed or prohibited goods, the same shall be forfeited,⁽¹⁾ and the owner and master of every such vessel or boat shall each forfeit and pay a penalty equal to the value of such vessel or boat, not in any case exceeding five hundred pounds.

Smuggling.

Vessels made use of in removal of uncustomed or prohibited goods, forfeited.

204. All the regulations which shall be so made by the said Commissioners of Customs relating to vessels and boats, and the power to grant, revoke, or vary such licences, shall extend to the Channel Islands.

Regulations to extend to Channel Islands.

205. No ship or boat belonging wholly or in part to her Majesty's subjects shall sail from the Channel Islands without a clearance, whether in ballast or having a cargo; and if with cargo, the master shall give bond to her Majesty in double the value of such cargo for the due landing thereof at the port for which such ship or boat clears; and every such ship or boat not having such clearance, or which, having a clearance for her cargo, shall be found light, or to have discharged any part of her cargo before arrival at the port or place of discharge specified in the clearance, shall be forfeited.⁽²⁾

Ships not to sail from Channel Islands without clearance.

Forfeiture.

206. The owner of every ship belonging wholly or in part to any of her Majesty's subjects shall paint or cause to be painted upon the outside of the stern of every boat belonging to such ship the name of such ship and the port or place to which she belongs, and the master's name withinside the transom, in white or yellow Roman letters, not less than two inches in length, on a black ground, on pain of the forfeiture of every such boat not so marked, wherever the same shall be found.

Boats of vessels to have thereon the name of vessel, port and master.

207. The owner of every boat not belonging to any ship shall paint or cause to be painted upon the stern of such boat, in white or yellow Roman letters, of two inches in length, on a black ground, the name of the owner of the boat and the port or place to which she belongs, on pain of the forfeiture of such boat not so marked, wherever the same shall be found.

Boat not belonging to ships, to have name of owner and port thereon.

208. All ships and boats belonging wholly or in part to her

British vessels having secret

⁽¹⁾ Sec. 222.

⁽²⁾ Penalty on master. Sec. 165.

Smuggling. Majesty's subjects having false bulkheads, false bows, double sides or bottoms, or any secret or disguised place whatsoever, adapted for the purpose of concealing goods, constructed in such ships or boats, or having any hole, pipe or device in or about such ships or boats adapted for the purpose of running goods, shall be forfeited; and all foreign ships or boats coming into any port of the United Kingdom having on board any goods liable to the payment of duties, or prohibited to be imported into the United Kingdom, concealed in false bulkheads, false bows, double sides or bottoms, or in any secret or disguised place whatsoever, constructed in such ships or boats, shall be forfeited.

Goods unshipped without payment of duty, and prohibited goods, liable to forfeiture. 209. If any goods liable to the payment of duties shall be unshipped from any ship or boat in the United Kingdom (Customs or other duties not being first paid or secured⁽¹⁾), or if any prohibited goods whatsoever shall be imported or brought into any part of the United Kingdom,⁽²⁾ or if any goods whatever which shall have been warehoused or otherwise secured in the United Kingdom, either for home consumption or exportation, shall be clandestinely or illegally removed from or out of any warehouse or place of

Prohibited goods shipped or water borne with intent to be exported, &c. security;⁽³⁾ or if any goods which are prohibited to be exported shall be put on board any ship or boat, with intent to be laden or shipped for exportation, or shall be brought to any quay, wharf, or other place in the United Kingdom, in order to be put on board any ship or boat for the purpose of being exported;⁽⁴⁾ or if any goods which are prohibited to be exported shall be found in any package produced to any officer of Customs as containing goods not so prohibited; or if any goods subject to any duty or restriction in respect of importation, or which are prohibited to be imported into the United Kingdom,⁽⁵⁾ shall be found or discovered to have been concealed in any manner on board any ship or boat within the limits of any port of the United Kingdom, or shall be found either before or after landing to have been concealed in any manner on board any such ship or boat, within such limits as aforesaid;⁽⁶⁾ then and in every of the foregoing cases all such goods

Goods concealed on board, and goods packed therewith, forfeited.

(¹) Sec. 55. (²) See also, sec. 44. *Onus probandi.* Sec 211.
 (³) Sec. 58. (⁴) Sec. 150. (⁵) Sec. 44.
 (⁶) Persons concerned. Sec 232, 236.

shall be forfeited, together with any goods which shall be found *Smuggling.*
packed with or used in concealing them.

210. All spirits and tobacco which shall be found removing *Spirits and tobacco found removing to be deemed run.*
without a legal permit or certificate for the same shall be deemed to be spirits or tobacco respectively liable to and unshipped without payment of duty, unless the party in whose possession the same shall be found or seized shall prove to the contrary.

211. All goods the importation of which is in any way restricted, which are of a description admissible to duty, and which shall be found or seized in the United Kingdom under any law relating to the Customs or Excise, shall, for the purpose of proceeding for the forfeiture of them, or for any penalty incurred in respect of them, be described in any information exhibited on account of such forfeiture or penalty as and on the trial or hearing thereof be deemed and taken to be goods liable to and unshipped without payment of duties, unless the contrary be proved. *Restricted goods to be deemed run.*

212. If any ship or boat, belonging wholly or in part to her Majesty's subjects, or having half the persons on board subjects of her Majesty, shall be found or discovered to have been within four leagues of that part of the coast of the United Kingdom which is between the North Foreland on the coast of Kent and Beachy Head on the coast of Sussex, or within eight leagues of any other part of the coast of the United Kingdom, or if any foreign ship or boat having one or more subjects of her Majesty on board shall be found or discovered to have been within three leagues of the coast of the United Kingdom, or if any foreign ship or boat shall be found or discovered to have been within one league of the coast of the United Kingdom, or if any ship or boat shall be found or discovered to have been within one league of the Channel Islands, any such ship or boat so found or discovered, having on board or in any manner attached thereto, or having had on board or in any manner attached thereto, or conveying or having conveyed in any manner, any spirits, not being in a cask or other vessel capable of containing liquids of the size or content of twenty gallons at the least, or any tea exceeding six pounds weight in the whole, or any tobacco or snuff not being in a cask or package containing two hundred pounds weight of *Certain vessels belonging to Her Majesty's subjects, or whereof half the persons on board are subjects of Her Majesty, and foreign vessels, found within certain distances of the coast of the United Kingdom, or Channel Islands, with certain goods on board, forfeited with the goods.*

Smuggling. tobacco or snuff at the least, or being separated or divided in any manner within any cask or package, or any tobacco stalks, tobacco stalk flour, snuff work, or any cordage or other articles adapted and prepared for slinging or sinking small casks, or any casks or other vessels whatsoever of less size or content than twenty gallons of the description used for the smuggling of spirits, then and in every such case the said spirits, tea, tobacco, snuff, tobacco stalks, tobacco stalk flour, and snuff work, together with the casks or packages containing the same, and the cordage or other articles, casks, and other vessels of the description aforesaid, and also the ship or boat, shall be forfeited.⁽¹⁾

Any vessel or boat arriving within any port of the United Kingdom or of the Channel Islands having prohibited goods on board or attached thereto, forfeited.

Commissioners may waive forfeiture.

Forfeiture not to extend to ships and goods in certain cases.

213. If any ship or boat shall be found or discovered to have been within any port, bay, harbour, river, or creek of the United Kingdom or the Channel Islands, having on board or in any manner attached thereto, or having had on board or in any manner attached thereto, or conveying or having conveyed in any manner, any spirits, not being in a cask or other vessel capable of containing liquids of the size or content of twenty gallons at the least, or any tobacco or snuff, not being in a cask or package containing two hundred pounds weight of such tobacco or snuff at the least, or being separated or divided in any manner within any cask or package, or any tobacco stalks, tobacco stalk flour, or snuff work, every such ship or boat, and such spirits, tobacco, snuff, tobacco stalks, tobacco stalk flour, and snuff work, shall be forfeited;⁽²⁾ but if it shall be made to appear to the satisfaction of the Commissioners of Customs that such spirits, tobacco, snuff, tobacco stalks, tobacco stalk flour, or snuff work were on board without the knowledge or privity of the owner or master of such ship or boat, and without any wilful neglect or want of reasonable care on their parts, then and in such case the said Commissioners shall deliver up the said ship or boat to the owner or master of the same.

214. Nothing herein contained shall extend to render any ship of one hundred and twenty tons burden or upwards liable to for-

⁽¹⁾ Persons concerned. Sec. 235.

⁽²⁾ Persons concerned. Sec. 236.

feiture on account of any tobacco coming direct from the East Indies or the Turkish dominions, including Egypt, if in packages each containing not less than one hundred pounds net weight of such tobacco; nor on account of any snuff or Negrohead tobacco the produce of and imported direct from the United States of America, if in packages each containing not less than one hundred and fifty pounds net weight of such snuff or tobacco; nor on account of any tobacco imported from Malta in packages each containing not less than eighty pounds net weight of such tobacco; nor on account of any tobacco the produce of Porto Rico, Mexico, South America, St. Domingo, Cuba, the British possessions in America and the West Coast of Africa, if in packages each containing not less than eighty pounds net weight of such tobacco, and imported direct from those places or from the United States of America; nor on account of any cigars, if in packages each containing not less than one hundred pounds net weight of such cigars; nor on account of any cigarillos or cigarettos, if in packages each containing not less than seventy five pounds net weight of such cigarillos or cigarettos; nor to render any ship of fifty tons burden or upwards liable to forfeiture on account of any tea, or of any spirits in glass bottles or stone bottles not exceeding the size of three pints each, such tobacco, snuff, cigars, cigarillos or cigarettos, tea, and spirits being really part of the cargo of such ship;⁽¹⁾ nor to render any ship liable to forfeiture on account of any spirits, tea, or tobacco really intended for the consumption of the seamen or passengers on board during their voyage, and not being more in quantity than is necessary for that purpose; nor to render any ship liable to forfeiture if really bound from one foreign port to another foreign port, and pursuing such voyage, wind and weather permitting.

215. If any ship or boat whatever shall be found within the limits of any port of the United Kingdom with a cargo on board, and such ship or boat shall afterwards be found light or in ballast, and the master is unable to give a due account of the port or place within the United Kingdom where such ship or

Smuggling.

Ships in port with a cargo, and afterwards found in ballast, and cargo unaccounted for, forfeited.

(1) Sec. 14.

Smuggling.

Certain ships from which goods are thrown overboard to prevent seizure to be forfeited.

boat shall have legally discharged her cargo, such ship or boat shall be forfeited.

216. Every ship or boat belonging wholly or in part to Her Majesty's subjects, or having on board one or more of Her Majesty's subjects, which shall be found or discovered to have been within four leagues of that part of the coast of the United Kingdom which is between the North Foreland on the coast of Kent and Beechy Head on the coast of Sussex, or within eight leagues of any other part of the coast of the United Kingdom, from which any part of the lading of such ship or boat shall have been thrown overboard, or on board which any of the goods shall be staved or destroyed to prevent seizure, shall be forfeited.⁽¹⁾

Ships belonging to Her Majesty's subjects, or having one half of the persons on board subjects of Her Majesty, throwing overboard any goods during chase, forfeited, and persons escaping deemed subjects.

217. When any ship or boat belonging wholly or in part to Her Majesty's subjects, or having one half of the persons on board being subjects of Her Majesty, shall be found within one hundred leagues of the coast of the United Kingdom, and shall not bring to upon signal made by any vessel or boat in Her Majesty's service or in the service of the Revenue, hoisting the proper pendant and ensign in order to bring such ship or boat to, and thereupon chase shall be given, if any person or persons on board such ship or boat so chased shall during the chase, or before such ship or boat shall bring to, throw overboard any part of her lading, or shall stave or destroy any part of such lading, to prevent seizure thereof, then and in any such case such ship or boat shall be forfeited;⁽²⁾ and all persons escaping from any such ship or boat, or from any foreign ship or boat, during any chase made thereof by any vessel or boat in Her Majesty's service or in the service of the Revenue, shall be deemed subjects of Her Majesty, unless the contrary be proved.

Ships to bring to on being chased by Preventive Service.

218. If any ship or boat liable to seizure or examination under this or any Act for the prevention of smuggling shall not bring to when required so to do, on being chased by any vessel or boat in Her Majesty's navy having the proper pendant and ensign of Her Majesty's ships hoisted, or by any vessel or boat duly em-

Not bringing to, may be fired into.

⁽¹⁾ Penalty on master. Sec. 53, and on persons concerned. Sec. 235.

⁽²⁾ Persons concerned. Sec. 235.

ployed for the prevention of smuggling, having a proper pendant and ensign hoisted, it shall be lawful for the captain, master, or other person having the charge or command of such vessel or boat in Her Majesty's navy, or employed as aforesaid, (first causing a gun to be fired as a signal,) to fire at or into such ship or boat, and such captain, master, or other person acting in his aid or by his direction, shall be and is hereby indemnified and discharged from any indictment, penalty, action, or other proceeding for so doing.⁽¹⁾

Smuggling.

219. Any officer or officers of the army, navy, or marines duly employed for the prevention of smuggling, and on full pay, or any officer or officers of Customs, producing his or their warrant or deputation (if required), may go on board any ship which shall be within the limits of any port of the United Kingdom, and rummage and search the cabin and all other parts of such ship for prohibited or uncustomed goods, and remain on board such ship so long as she shall continue within the limits of such port.⁽²⁾

Ships may be searched within the limits of the ports.

220. Any officer of Customs or Excise, or other person acting in his or their aid, or duly employed for the prevention of smuggling, may, upon reasonable suspicion, stop and examine any cart, waggon, or other means of conveyance, for the purpose of ascertaining whether any smuggled goods are contained therein; and if no such goods shall be found, the officer or other person so stopping and examining such cart, waggon, or other conveyance, having had probable cause to suspect that such cart, waggon, or other conveyance had smuggled goods contained therein, shall not, on account of such stoppage and search, be liable to any prosecution or action at law on account thereof; and all persons driving or conducting such cart, waggon, or other conveyance, refusing to stop or allow any such examination when required in the Queen's name, shall forfeit the sum of one hundred pounds.

Officers of Customs may, on probable cause, stop carts, &c., and search for goods.

221. Any officer of Customs, or person acting under the direc-

Officers authorized by writ of

⁽¹⁾ Firing at H. M. ships or officers, felony. Sec. 249.

⁽²⁾ Secs. 48 and 146. Power to search persons and penalty for obstruction. Sec. 229.

Smuggling.

assistance may search houses for uncustomed or prohibited goods.

tion of the Commissioners of Customs, having a writ of assistance issued from the Court of Exchequer, may, in the daytime, enter into and search any house, shop, cellar, warehouse, room, or other place, and in case of resistance break open doors, chests, trunks, and other packages, and seize and bring away any uncustomed or prohibited goods,⁽¹⁾ and put and secure the same in the Queen's warehouse, and may take with him any constable, headborough, police or other public officer, duly sworn as such, who may act as well without the limits of the parish or other place for which he shall be so sworn as within such limits; and all writs of assistance so issued shall continue in force during the reign for which they were granted, and for six months afterwards.

Ships and boats used in removal of run goods to be forfeited.

222. All ships, boats, carriages, or other means of conveyance, together with all horses and other animals made use of in the removal, carriage, or conveyance of any goods liable to forfeiture under this or any other Act relating to the Customs, shall be forfeited.⁽²⁾

Ships, boats, goods and persons may be seized or detained, and goods delivered to the proper officer.

223. All ships and boats, and all goods whatsoever, liable to forfeiture,⁽³⁾ and all persons liable to be detained for any offence under this or any other Act relating to the Customs, shall and may be seized or detained in any place, either upon land or water, by any officer or officers of Her Majesty's army, navy, or marines, duly employed for the prevention of smuggling, and on full pay, or by any officer or officers of Customs or Excise, or by any person having authority from the Commissioners of Customs or Inland Revenue to seize, or duly employed for the prevention of smuggling;⁽⁴⁾ and all ships, boats, and goods so seized shall, as soon as conveniently may be, be delivered into the care of the proper officer appointed to receive the same; and the forfeiture of any ship or boat shall be deemed to include her tackle, apparel, and furniture, and the forfeiture of any goods shall be deemed to include the package in which the same are found, and all the contents thereof.

(¹) *Onus probandi.* Sec. 211.

(²) See sec. 203. Disposal of seizure. Secs. 227, 228.

(³) Secs. 203—222.

(⁴) Officer to give notice. Sec. 226.

224. If any goods liable to forfeiture under this or any other Act relating to the Customs shall be stopped or taken by any police officer or other person acting by virtue of any Act of Parliament, or otherwise duly authorized, such goods shall be carried to the Customs warehouse next to the place where the goods were stopped or taken, and there delivered to the proper officer appointed to receive the same, within forty-eight hours after the said goods were stopped and taken.

Smuggling.

Police officers seizing goods, to carry them to the Customs warehouse.

225. If any such goods shall be stopped or taken by any police officer on suspicion that the same had been feloniously stolen, the said officer may carry the same to the police office to which the offender is taken, there to remain until and in order to be produced at the trial of the offender, and in such case the officer is required to give notice in writing to the Commissioners of Customs of his having so detained the said goods, with the particulars of the same; and immediately after the trial of such offender all such goods shall be conveyed to and deposited in the Customs warehouse as aforesaid, to be proceeded against according to law; and in case any police officer making detention of any such goods shall neglect to convey the same to such warehouse, or to give the notice of having stopped the same as before prescribed, such officer shall forfeit the sum of twenty pounds.

Goods stopped by police officers may be retained until trial of persons charged with stealing them.

226. Whenever any ship, boat, or goods shall be seized as forfeited under this or any Act relating to the Customs, the seizing officer shall forthwith give notice in writing of such seizure, and of the grounds thereof, to the master or owner of such ship, boat, or goods, if known, either by delivering the same to him personally, or by letter addressed to him at his place of abode, if known, and transmitted by post; and all ships, boats, or goods so seized under any law relating to the Customs shall be deemed and taken to be condemned, and may be sold, in the manner directed by law in respect to ships, boats, and goods seized and condemned for breach of any law relating to the Customs, unless the person from whom such ships, boats, and goods shall have been seized, or the owner of them, or some person authorized by him, shall, within one calendar month from the day of seizing the same, give notice in writing, if in London,

Notice to be given by seizing officer to owner of ships or goods seized, and seizures to be claimed within one month.

Smuggling.

to the person seizing the same, or to the secretary or solicitor for the Customs, and, if elsewhere, to the person seizing the same, or to the Collector, Comptroller, or other chief officer of the Customs at the nearest port, that he claims the ship, boat, or goods, or intends to claim them.⁽¹⁾

Commissioners of Treasury or of Customs may restore seizures.

227. The Commissioners of the Treasury or of the Customs may, by any order made by them for that purpose, direct any ship, boat, goods, or commodities whatever seized under this or any Act relating to the Customs to be delivered to the proprietor thereof, whether condemnation shall have taken place or not, upon such terms and conditions as the said Commissioners respectively may see fit.

Ships and goods seized may be disposed of as Commissioners of Customs direct.

228. All ships and boats and all goods whatsoever which shall have been seized and condemned for breach of any law relating to the Customs shall be disposed of, as soon as conveniently may be after the condemnation thereof, in such manner as the Commissioners of Her Majesty's Customs may direct; and any nets, dredges, instruments, or implements of fishing liable to seizure or forfeiture, and seized, under the Act passed in the sixth and seventh years of the reign of Her present Majesty, chapter seventy-nine, and the convention and articles therein referred to, shall and may be sold or otherwise disposed of, as the Commissioners of Customs may direct, unless claimed within one month after seizure thereof, or within one month after the passing of this Act as to such as may be then under seizure, such claim being made in the same manner as is prescribed by the two hundred and twenty-sixth section of this Act with respect to ships, boats, or goods seized under this Act.

Fishing implements, &c., seized, may be sold, unless claimed as in s. 226 of this Act.

Offences.

As to offences committed by and penalties attaching to persons.

Persons may be searched if officers have reason to suspect smuggled goods are concealed upon them.

229. Any officer of Customs, or of the army, navy, or marines, duly employed in the prevention of smuggling, and on full pay, may search any person on board any ship or boat within the limits of any port in the United Kingdom or the Channel Islands, or any person who shall have landed from any ship or

(¹) Claims and appearances. Secs. 309, to 312 inclusive.

boat, provided such officer shall have good reason to suppose that such person has any uncustomed or prohibited goods secreted about his person; and if any person shall obstruct any such officer in going, remaining, or returning from on board, or in searching such ship or boat or person, every such person shall forfeit the sum of one hundred pounds ;⁽¹⁾ and if any passenger or other person on board any such ship or boat, or who may have landed from any such ship or boat, shall, upon being questioned by any such officer whether he has any foreign goods upon his person or in his possession, deny the same, and any such goods shall after such denial be discovered to be or to have been upon his person or in his possession, such goods shall be forfeited, and such person shall forfeit treble the value of such goods.⁽²⁾

Smuggling.

Penalty on persons denying having foreign goods about them.

230. Before any person shall be searched by any such officer as aforesaid, such person may require such officer to take him or her before any justice, or before the Collector, Comptroller, or other acting principal officer of the Customs, who shall, if he see no reasonable cause for search, discharge such person, but if otherwise, direct such person to be searched, and if a female she shall not be searched by any other than a female.

Persons before search may require to be taken before a justice or officer of Customs.

231. Any officer required to take any such person before such justice, Collector, Comptroller, or other superior officer of Customs shall do so with all reasonable despatch; but if such officer shall require any person to be searched, not having reasonable ground to suppose that he has uncustomed or prohibited goods about his person, such officer shall forfeit and pay any sum not exceeding ten pounds.

Penalty on officers for misconduct.

232. Every person who shall be concerned in importing or bringing into the United Kingdom any prohibited goods, or any goods the importation of which is restricted, contrary to such prohibition or restriction, and whether the same be unshipped or not; and every person who shall unship or assist or be otherwise concerned in the unshipping of any goods which are prohibited or of any goods which are restricted and imported contrary to such

Persons concerned in importing prohibited or restricted goods, whether unshipped or not, and persons unshipping, harbouring or having custody of such goods, to forfeit treble the value, or 100*l*.

(1) Assaulting officers. Sec. 251.

(2) Concealments in baggage. Sec. 69.

Smuggling. restriction,⁽¹⁾ or of any goods liable to duty, the duties for which have not been paid or secured ;⁽²⁾ or who shall knowingly harbour, keep, or conceal, or shall knowingly permit or suffer or cause or procure to be harboured, kept, or concealed, any such goods, or any goods which shall have been illegally removed without payment of duty from any warehouse or place of security in which they may have been deposited; or to whose hands and possession any such goods shall knowingly come; or who shall assist or be concerned in the illegal removal of any goods from any warehouse or place of security in which they shall have been deposited as aforesaid ;⁽³⁾ or who shall be in any way knowingly concerned in conveying, removing, depositing, concealing, or in any manner dealing with any goods liable to duties of Customs, with intent to defraud Her Majesty of such duties or any part thereof;⁽⁴⁾ or who shall be in any way knowingly concerned in any fraudulent evasion or attempt at evasion of such duties or any part thereof;⁽⁵⁾ shall in each and every of the foregoing cases forfeit either treble the value of the goods or the penalty of one hundred pounds, at the election of the Commissioners of Customs.

If goods removed prior to examination, penalty upon parties concerned in the removal.

233. Every person who shall remove any goods imported into the United Kingdom from any ship, quay, wharf, or other place previous to the examination thereof by the proper officer of Customs, unless under the care or authority of such officer,⁽⁶⁾ or who shall remove or withdraw from any quay, wharf, or other place any goods entered to be warehoused after the landing thereof, so that no sufficient account is taken thereof by the proper officer, or so that the same are not duly warehoused,⁽⁷⁾ and every person who shall assist or be otherwise concerned in such removal or withdrawal, or shall knowingly harbour, keep, or conceal, or shall knowingly permit or suffer or cause or procure to be harboured,

(¹) Forfeiture of goods. Sec. 44.

(²) *Onus probandi.* Secs. 211 and 305.

(³) Forfeiture of goods. Sec. 209.

(⁴) Forfeiture of goods. Sec. 89.

(⁵) See sec. 93.

(⁶) Forfeiture of goods. Sec. 86.

(⁷) Forfeiture of goods. Sec. 87.

kept, or concealed. any such goods, or to whose possession any such goods shall knowingly come, every such person shall forfeit either treble the value thereof or the penalty of one hundred pounds, at the election of the Commissioners of Customs. *Smuggling.*

234. Every person who shall unship or be aiding or concerned in the unshipping of any spirits, tobacco, snuff, tobacco stalks, tobacco stalk flour, or snuff-work, or of any tea or silk, such tea or silk being of the value of ten pounds or upwards, liable to forfeiture under this or any other Act relating to the Customs or Excise, or who shall carry, convey, or conceal, or be aiding, assisting, or concerned in the carrying, conveying, or concealing of any such spirits, tobacco, snuff, tobacco stalks, tobacco stalk flour, or snuff-work, or of any such tea or silk as aforesaid, shall forfeit for each such offence treble the value of such goods, or the sum of one hundred pounds, at the election of the Commissioners of Customs; and every such person may be detained, to be dealt with as hereinafter directed.⁽¹⁾

235. Every subject of Her Majesty who shall be found or discovered to have been on board any ship or boat liable to forfeiture under this or any Act relating to the Customs for being found or discovered to have been within any of the distances in this Act mentioned from the United Kingdom or the Channel Islands, having on board or in any manner attached thereto, or having had on board or in any manner attached thereto, or conveying or having conveyed in any manner, such goods or things as subject such ship or boat to forfeiture, or who shall be found or discovered to have been within any such distances as aforesaid on board any ship or boat from which any part of the cargo or lading shall have been thrown overboard, or staved or destroyed, to prevent seizure,⁽²⁾ and every person, not being a subject of Her Majesty, who shall be found or discovered to have been on board any ship or boat liable to forfeiture for any of the causes last aforesaid within one league of the coast of the United Kingdom or of the Channel Islands, shall, upon being duly convicted of any of the said

Persons unshipping or concerned in the carrying away or concealing spirits or tobacco to forfeit 100*l.*, and may be detained.

Persons found or discovered to have been on board vessels liable to forfeiture for being found within certain limits of the coast, subject to be committed to any House of Correction.

(1) Secs. 237, 238, 239, 240, 281, 284.

(2) Forfeiture of vessel and goods. Sec. 212.

Smuggling.

offences before any Justice, be adjudged by such Justice, for the first of such offences to be imprisoned in any House of Correction, and there kept to hard labour, for any term not less than six nor more than nine months, and for the second of such offences for any term not less than nine nor more than twelve months, and for the third or any subsequent offence for twelve months; and every such person may be detained, and taken before any justice, to be dealt with as hereinafter directed.⁽¹⁾

Persons on board vessels within ports of the United Kingdom or the Channel Islands, with contraband articles, subject to penalty of 100*l.*, and detention.

236. Every person who shall be found or discovered to have been on board any ship or boat liable to forfeiture under this or any other Act relating to the Customs for being found or discovered to have been within any port, bay, harbour, river, or creek of the United Kingdom or of the Channel Islands, having on board or in any manner attached thereto, or having had on board or in any manner attached thereto, or conveying or having conveyed in any manner, such goods or things as subject such ship or boat to forfeiture,⁽²⁾ or who shall be found or discovered to have been on board any of Her Majesty's ships or vessels, or on board any ship or vessel in Her Majesty's employment or service, or on board of any foreign post office packet, being a national vessel, employed in carrying the mails between any foreign country and the United Kingdom, such last-mentioned ships, vessels, or packets being found or discovered to have been within any port, bay, harbour, river, or creek of the United Kingdom or the Channel Islands, having on board or in any manner attached thereto, or having had on board or in any manner attached thereto, or conveying or having conveyed in any manner, any spirits, not being in a cask or other vessel capable of containing liquids of the size or content of twenty gallons at the least, or any tobacco or snuff, not being in a cask or package containing two hundred pounds weight of such tobacco or snuff at least, or being separated or divided in any manner within any cask or package, shall forfeit the sum of one hundred pounds; and every such person shall and may be detained, and taken before any justice, to be dealt with as hereinafter directed.⁽³⁾

(1) Secs. 238, 240, 275, 281, 285, 286, 287.

(2) Sec. 213.^c

(3) Secs. 237, 238, 239, 240, 281, 284.

237. Where any person or persons, being part of the crew of any of Her Majesty's ships or vessels, or of any ship or vessel in Her Majesty's employment or service, and liable to detention, shall have been detained under any law relating to the Customs, such person or persons, upon notice thereof by the detaining officer to the commanding officer of the ship or vessel, shall be placed in security by such commanding officer on board such ship or vessel, until such detaining officer shall have obtained a warrant from a justice for bringing such person or persons before him or any other justice or justices, to be dealt with according to law, which warrant such justice is required to grant upon complaint made to him by such officer of Customs, stating the offence for which such person or persons is or are liable to detention.⁽¹⁾

Smuggling.

Persons in Her Majesty's service detained, to be secured on board until warrant procured.

238. If any person liable to be detained under this or any other Act relating to the Customs shall not be detained at the time of committing the offence for which he is so liable, or shall after detention make his escape, such person shall and may at any time afterwards be detained, and taken before any justice, to be dealt with as if detained at the time of committing such offence.

Any person escaping, may afterwards be detained.

239. Whenever any person shall have been detained, and taken before any justice, for being found or discovered to have been on board any ship or boat within any port, bay, harbour, river, or creek of the United Kingdom or the Channel Islands, such ship or boat having on board or having had on board spirits or tobacco in such casks or packages as would under this or any other Act relating to Customs subject the same to forfeiture,⁽²⁾ or for unshipping or for aiding or being concerned in the unshipping of any spirits or tobacco liable to forfeiture under this or any other Act relating to the Customs or Excise, or for carrying, conveying, or concealing, or for aiding or being concerned in the carrying, conveying, or concealing of any such spirits or tobacco,⁽³⁾ and it shall appear to such justice that the quantity of spirits in respect of which such person has been so detained does not exceed two

Magistrates to proceed to conviction of smugglers in certain cases without an order of Customs.

(¹) Liability to detention. Secs. 234, 236.

(²) Sec. 213.

(³) Secs. 209, 210.

Smuggling.

gallons, or that the quantity of tobacco in respect of which such person has been so detained does not exceed ten pounds weight, such justice may proceed summarily upon the case without any information, and although no direction shall have been given by the Commissioners of Customs, and convict such person of such offence, and adjudge that such person shall, in lieu of any other penalty, forfeit any sum not less than the single value nor more than treble the value of such goods, including the duties of importation due thereon, and in default of payment of such sum of money commit such person to any of Her Majesty's gaols for any time not exceeding one month.

Where persons are taken before a justice for any offence under any Act relating to the Customs, such justice may order them to be detained a reasonable time, or admit to bail.

240. When any person shall have been detained for any offence against this or any other Act relating to the Customs, and taken before any justice, such justice may, if he see reasonable cause, order such person to be detained in gaol, or in the custody of the police or constabulary force, a reasonable time, to obtain the order of the Commissioners of Customs or Inland Revenue,⁽¹⁾ and to prepare the necessary informations, convictions, and warrants of commitment,⁽²⁾ and at the expiration of such time to be brought before him, or any other justice or justices, who may then finally hear and determine the matter; but any person so detained may be liberated, on giving, by recognizance, security to the satisfaction of such justice in the sum of one hundred pounds, or in the amount of the penalty sought to be recovered, to appear at such time and place as shall be appointed by such justice for hearing the case.

Penalty on persons offering goods for sale under pretence of being run or prohibited.

241. If any person shall offer for sale any goods under pretence that the same are prohibited, or have been unshipped and run on shore without payment of duties, all such goods (although not liable to any duties or prohibited) shall be forfeited, and every person so offering the same for sale shall forfeit treble the value of such goods.

No subject of Her Majesty, except officers,

242. No subject of Her Majesty, other than officers of the Navy, Customs, or Excise, shall intermeddle with or take up any spirits, being in casks of less content than twenty gallons, which

⁽¹⁾ Direction of Commissioners. Sec. 301. Exception. Sec. 239.

⁽²⁾ Sec. 269.

may be found floating upon or sunk in the sea within one hundred leagues of the United Kingdom; and if any spirits shall be so intermeddled with or taken up the same shall be forfeited, together with any ship or boat in which they are found.⁽¹⁾

Smuggling.

to take up spirits in small casks sunk or floating upon the sea.

243. The Commissioners of the Treasury or Customs may mitigate or remit any penalty or fine, or any part of any penalty or fine, incurred under this or any Act relating to the Customs, or release from confinement any person committed under this or any Act relating to the Customs, on such terms and conditions as to them shall appear proper.

Commissioners of Treasury or Customs may restore seizures, and mitigate or remit punishments and penalties.

244. No person shall, after sunset and before sunrise between the twenty-first day of September and the first day of April, or after the hour of eight in the evening and before the hour of six in the morning at any other time of the year, make, aid, or assist in making any signal in or on board or from any ship or boat, or on or from any part of the coast or shore of the United Kingdom, or within six miles of any part of such coast or shore, for the purpose of giving notice to any person on board any smuggling ship or boat, whether any person so on board of such ship or boat be or not within distance to notice any such signal; and if any person, contrary to this Act, shall make or cause to be made, or aid or assist in making, any such signal, such person so offending shall be guilty of a misdemeanour; and any person may stop, arrest, and detain the person so offending, and convey him before any justice, who, if he see cause, shall commit the offender to the next county gaol, there to remain until delivered by due course of law; and it shall not be necessary to prove on any indictment or information in such case that any ship or boat was actually on the coast; and the offender, being duly convicted, shall, by order of the Court before whom he shall be convicted, either forfeit the penalty of one hundred pounds, or, at the discretion of such Court, be committed to the Common Gaol or House of Correction, there to be kept to hard labour for any term not exceeding one year.

Persons signalling smuggling vessels may be detained, and forfeited 100*l.*, or be kept to hard labour for one year.

245. If any person be charged with or indicted for having made or caused to be made, or for aiding or assisting in making, any such signal as aforesaid, the burden of proof that such

Proof of a signal not being intended on defendant.

(1) Persons on board. Secs. 235, 236.

Smuggling.

signal so charged as having been made with intent and for the purpose of giving such notice as aforesaid was not made with such intent and for such purpose shall be upon the defendant against whom such charge is made or such indictment is found.

Any person may prevent signals, and enter lands for that purpose.

246. Any person whatsoever may prevent any signal being made as aforesaid, and may go upon any lands for that purpose, without being liable to any indictment, suit, or action for the same.

Persons assembling, to the number of three or more, to run spirits, tobacco, &c., or obstructing officers, to be sent to House of Correction to hard labour.

247. All persons assembled, to the number of three or more, for the purpose of unshipping, carrying, conveying, or concealing any spirits or tobacco, or any tea or silk (such tea or silk being of the value of ten pounds or more), liable to forfeiture under this or any other Act relating to the Customs or Excise, and every person who shall by any means procure or hire, or shall depute or authorize any other person to procure or hire, any person or persons to assemble for the purpose of being concerned in the landing or unshipping, or carrying, conveying, or concealing any goods which are prohibited to be imported, or the duties for which have not been paid or secured, and every person who shall obstruct any officer or officers of the army, navy, or marines, being duly employed for the prevention of smuggling, or any officer or officers of Customs⁽¹⁾ or Excise, or any person acting in his or their aid or assistance, or duly employed for the prevention of smuggling, in the execution of his or their duty, or in the due seizing of any goods liable to forfeiture by this Act or any Act relating to the Customs, or who shall rescue, attempt or endeavour to rescue, or cause to be rescued, any goods which have been duly seized, or who shall before, or at, or after any seizure stave, break, or otherwise destroy, or attempt or endeavour to break, stave, or otherwise destroy, any goods, to prevent the seizure thereof or the securing of the same, shall, upon being duly convicted of any of the said offences before any justice of the peace, be adjudged by such justice for the first offence to be imprisoned in any house of correction, and there kept to hard

(1) Other obstructions, &c. Secs. 229, 248, 249, 251.

labour, for any term not less than six nor more than nine months, and for the second offence for any term not less than nine nor more than twelve months, and for the third or any subsequent offence for twelve months. *Smuggling.*

248. If any persons, to the number of three or more, armed with firearms or other offensive weapons, shall, within the United Kingdom, or within the limits of any port, harbour or creek thereof, be assembled in order to be aiding and assisting in the illegal landing, running, or carrying away of any prohibited goods, or any goods liable to any duties which have not been paid or secured, or in rescuing or taking away any such goods as aforesaid after seizure from the officer of the Customs, or other officer authorized to seize the same, or from any person or persons employed by or assisting them, or from the place where the same shall have been lodged by them, or in rescuing any person who shall have been apprehended for any offence made felony by this or any act relating to the Customs, or in the preventing the apprehension of any person who shall have been guilty of such offence, or in case any persons, to the number of three or more, so armed as aforesaid, shall, within the United Kingdom, or within the limits of any port, harbour, or creek thereof, be so aiding or assisting, every person so offending, and every person aiding, abetting, or assisting therein, shall, being thereof convicted, be adjudged guilty of felony, and shall be liable, at the discretion of the Court before which he shall be convicted, to be transported beyond the seas for the term of his natural life, or for any term not less than fifteen years, or to be imprisoned for any term not exceeding three years. *Three or more armed persons assembled to land or rescue smuggled goods, guilty of felony.*

249. If any person shall maliciously shoot at any vessel or boat belonging to Her Majesty's Navy, or in the service of the revenue, within one hundred leagues of any part of the coast of the United Kingdom, or shall maliciously shoot at, maim, or wound any officer of the army, navy, or marines, being duly employed for the prevention of smuggling, and on full pay, or any officer of Customs or Excise, or any person acting in his aid or assistance, or duly employed for the prevention of smuggling.⁽¹⁾ *Persons shooting at boats belonging to navy or revenue service, guilty of felony.*

(1) Provision for wounded officers, &c. Sec. 254.

Smuggling. in the execution of his office or duty, every person so offending, and every person, aiding, abetting, or assisting therein, shall, upon conviction, be adjudged guilty of felony, and shall be liable, at the discretion of the Court before which he shall be convicted, to be transported beyond the seas for the term of his natural life, or for any term not less than fifteen years, or to be imprisoned for any term not exceeding three years.

Any person in company with four others, having smuggled goods, or with one other, armed or disguised, guilty of felony. 250. If any person, in company with more than four others, be found with any goods liable to forfeiture under this or any other Act relating to the Customs or Excise, or in company with one other person, within five miles of the sea coast or of any tidal river, and carrying offensive arms or weapons, or disguised in any way, every such person shall be adjudged guilty of felony, and shall, on conviction of such offence, be transported as a felon for the term of seven years.

Persons assaulting officers by force or violence may be transported. 251. If any person shall, by force or violence, assault, resist, or obstruct any officer of the army, navy, or marines, being duly employed for the prevention of smuggling, and on full pay, or any officer of Customs or Excise, or other person duly employed for the prevention of smuggling, in the due execution of his or their duty, or any person acting in his or their aid, every person so offending, being thereof convicted, shall be transported for seven years, or sentenced to be imprisoned in any house of correction or common gaol, and kept to hard labour, for any term not exceeding three years, at the discretion of the Court before whom such offender shall be tried and convicted as aforesaid.⁽¹⁾

Commanding officers may haul their vessels on shore without being liable to suit. 252. The commanding officer for the time being of any vessel or boat employed for the prevention of smuggling may haul any such vessel or boat upon any part of the coasts of the United Kingdom, or the shores, banks, or beaches of any river, creek, or inlet of the same, (not being a garden or pleasure ground, or place ordinarily used for any bathing machine or machines,) which shall be deemed most convenient for that purpose, and moor any such vessel or boat on such part of the afore-

(¹) Other obstructions. Secs. 229, 247, 248, 249.

said coasts, shores, banks, and beaches below high-water mark, and over which the tide flows on ordinary occasions, and to continue such vessel or boat so moored as aforesaid for such time as the said commanding officer shall deem necessary and proper; and such commanding officer, or person or persons acting under his direction, shall not be liable to any indictment, action, or suit for so doing. *Smuggling.*

253. Any officer of the army, navy, or marines, being duly employed for the prevention of smuggling, and on full pay, or any officer of Customs or Excise, or any person acting in his or their aid, or duly employed for the prevention of smuggling,⁽¹⁾ when on duty, may patrol upon and pass freely along and over any part of the coasts of the United Kingdom, or any railway, or the shores or banks of any river, creek, or inlet of the same (not being a garden or pleasure ground); and any such officer or person so patrolling shall not be liable to any indictment, action, or suit for so doing. *Officers of army, &c., may patrol coasts without being liable to suit.*

As to Compensation and Rewards.

Compensations and Rewards.

254. If any officer or seaman employed in the service of the Customs or Inland Revenue shall be killed, maimed, wounded, or in any way injured in the due execution of his office, or if any person acting in his aid, or duly employed for the prevention of smuggling, shall be so killed, maimed, wounded, or in any way injured while so aiding such officer or seaman, or so employed, the Commissioners of Customs or Inland Revenue respectively may, with the sanction of the Commissioners of the Treasury, make such provision for such officer or person, or for the widows and families of such as shall be killed, as they may see fit.⁽²⁾ *Officers wounded to be provided for, &c.*

255. The Commissioners of Customs may award to any officer or other person detaining any person liable to detention under this or any other Act relating to the Customs, if convicted, such reward as they may think fit, not exceeding the sum of twenty pounds for each person. *Rewards for detaining smugglers.*

⁽¹⁾ Other persons to prevent signals. Sec. 246.

⁽²⁾ Shooting officers, &c. felony. Sec. 249.

- Smuggling.* 256. The Commissioners of Customs may order such reward as they see fit out of any pecuniary penalty or composition to any officer or other person by whose means the same is recovered.
- Rewards out of penalties.
- Rewards to officers making seizures.
257. The Commissioners of Customs may order to be paid in respect of any seizure made under this or any Act relating to the Customs, to the person or persons making the same, such rewards as they may see fit, not exceeding the value of the goods or things so seized,⁽¹⁾ and for this purpose the value of spirits and tobacco seized as aforesaid shall be deemed and taken to be such as the Lords of the Treasury or the Commissioners of Customs may think fit.
- The Treasury or Commissioners of Customs to fix the value of spirits and tobacco.
- How value is to be ascertained.
258. In all cases where any penalty the amount of which is to be determined by the value of any goods is directed to be sued for under any Act relating to the Customs or Excise, such value shall, as regards proceedings in any court or before justices, be estimated and taken according to the rate and price for which goods of the like kind but of the best quality upon which the duties of importation shall have been paid were sold at or about the time of the offence, or according to the rate and price for which the like sort of goods were sold in bond at or about the time of the offence, with the duties due thereon added to such rate or price in bond, except as to tobacco stalks, tobacco stalk flour, and snuff-work, the value of which shall, for the purpose of any suit or proceeding under this or any Act relating to the Customs, be estimated at the same rate as that of unmanufactured tobacco upon which the duties of importation shall have been paid.
- All rewards and seizures payable to officers of army, navy or marines, to be regulated by Order in Council.
259. Every reward or share of any such seizure, or of the value thereof, payable to any officer or officers, non-commissioned officers, petty officers, seamen, or privates of Her Majesty's army, navy, or marines, or acting under the orders of the Lord High Admiral or Commissioners of the Admiralty, shall be divided and distributed in such proportions, and according to such rules, regulations, and orders, as Her Majesty shall by Her Order or Orders in Council or by Her royal proclamation in that behalf be pleased to direct and appoint.

(¹) Distribution. Sec. 260. Channel Islands and B. P. Sec. 184. Army and Navy rewards. Sec. 259.

260. The Commissioners of Customs or Inland Revenue respectively may, in case of any seizure of ships, boats, or goods, or of the apprehension of any parties, under this or any other Act relating to the Customs, direct the distribution of the seizer's share of such ships, boats, or goods, or of any penalties or rewards that may be recovered on account of any seizure so that any other person through whose information or means such seizure shall have been made or penalty recovered or party apprehended, and who may by them be deemed to be so entitled, may participate in such proportions as the said Commissioners shall respectively deem expedient.

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Commissioners may distribute officers' shares of seizure so as to reward persons not actually present.

261. If any person shall discover any spirits in casks of less content than twenty gallons found floating upon or sunk in the sea, and shall give information to any officer of the Customs, or other person duly authorized to make seizure of such spirits, so that seizure shall be made of the same, the person giving such information shall be entitled to and shall receive such reward as the Commissioners of Customs may direct.

Rewards to persons giving information of goods floating or sunk in the sea.

*As to collusive Seizures.**Collusive Seizures.*

262. If any officer of Customs or Excise, or of the army, navy, or marines, duly employed for the prevention of smuggling, and on full pay, or any other person or persons whomsoever duly employed for the prevention of smuggling, shall make any collusive seizure, or deliver up, or make any agreement to deliver up or not to seize any vessel or boat, or any goods liable to forfeiture, or shall take any bribe, gratuity, recompense, or reward for the neglect or nonperformance of his duty, or conspire or connive with any person to import or bring into the United Kingdom or the Channel Islands, or any of the British Possessions abroad, or be in any way concerned in the importation or bringing into the United Kingdom, or the said Islands or Possessions of any goods prohibited to be imported or liable to duties of Customs for the purpose of seizing any ship, boat, or goods, and obtaining any reward for such seizure or otherwise, every such officer or other person shall forfeit for every such offence the sum of five hundred pounds, and be rendered incapable of serving Her Majesty in any

Penalty on officers and persons making collusive seizures, or taking bribes, and on persons offering them.

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office whatever, either civil or military ;⁽¹⁾ and every person who shall give or offer, or promise to give or procure to be given, any bribe, recompense, or reward to, or shall make any collusive agreement with, any such officer or person as aforesaid to induce him in any way to neglect his duty, or to do, conceal or connive at any act whereby any of the provisions of any Act of Parliament relating to the Customs may be evaded, shall forfeit the sum of two hundred pounds.

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As to the course of Procedure for recovering Penalties and enforcing Forfeitures under this or any other Act relating to the Customs.

*Jurisdiction.
Penalties and
forfeitures, how
to be sued for*

263. In all suits or proceedings at the suit of the Crown for the recovery of any duty or penalty, or the enforcement of any forfeiture under this or any Act relating to the Customs, the parties thereto shall be entitled to recover costs against each other in the same manner as if such suits or proceedings were conducted and had between subject and subject,⁽²⁾ and the like amendments may be made in all such proceedings by the judge or Court as may now be made in civil actions ; and all duties, penalties, and forfeitures incurred under or imposed by this or any other Act relating to the Customs, and the liability to forfeiture of any goods seized under the authority thereof, shall and may, except as is herein-after provided, be sued for, prosecuted, determined, and recovered by action of debt, information, or other appropriate proceeding in the superior Courts of Common Law at Westminster, Dublin, or Edinburgh, or in the royal courts of the Islands of Guernsey, Jersey, Alderney, Sark, or Man, in the name of the Attornies-General for England or Ireland respectively, or of the Lord Advocate of Scotland, or of some officer of Customs or Excise, and for the recovery or enforcement of any penalty or forfeiture, by information in the name of some officer of Customs or Excise,⁽³⁾ before one or more

(1) Dismissal. Sec. 8.

(2) As to costs in actions against officers. Secs. 30, 315, 317, 322.

(3) Where directions of Board, &c. required. Sec. 301. Where not. Sec. 239.

justice or justices in the United Kingdom, or before any governor, deputy-governor, or deemster, or other magistrate, in the Isle of Man and the Channel Islands :⁽¹⁾ Provided always, that where any goods shall have been seized in the United Kingdom, with regard to which the amount of duties or penalties claimed by the Crown shall not exceed the sum of one hundred pounds, such seizure or penalties shall not be sued for or enforced in any of the said superior courts, but by information before any one or more justice or justices, governor, deputy-governor, deemster, or other magistrate as aforesaid, or by information, suit, or other appropriate proceeding in the county courts, if in England, the assistant-barristers court, if in Ireland, and the sheriffs court, if in Scotland, for which purposes the said courts respectively shall have jurisdiction in such cases to the extent of one hundred pounds, with power to enforce or mitigate any penalty sought to be recovered, unless upon consideration of the facts and circumstances of, or the questions of law involved in any case so excepted from the jurisdiction of the superior courts of common law, it shall appear to the Commissioners of Customs desirable that such case should be tried in a superior court, in which case the said Commissioners shall certify their opinion that it is a proper case to be tried in the said superior courts to the Commissioners of the Treasury, who may thereupon make and issue an order to the said Commissioners of Customs, authorizing them to bring such case in such superior court, and the purport of such order shall be endorsed on any process to be issued out of such court in such case at the suit or prosecution of the Crown in the words following : " By order of " the Commissioners of Her Majesty's Treasury, this case appearing to them to be a fit case to be tried in Her Majesty's " Court of Exchequer," and the same shall confer jurisdiction on such superior court to try such case.

264. It shall be optional for the defendant in any case, except as herein-after provided, where the amount of duties or penalties claimed by the crown shall not exceed the sum of one hundred pounds, to require that, instead of proceeding against him on

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Proviso where the duties and penalties sought to be recovered shall not exceed 100*l.*

Where suits for recovery of duties and penalties, though not exceeding 100*l.* may be prosecuted before a superior tribunal.

Proceedings at the option of defendant to be instituted in superior courts, though the sum claimed for

⁽²⁾ Powers defined. Sec. 277.

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duties and
penalties does
not exceed
100*l*.

account thereof by information before any justice or justices as aforesaid, the proceedings shall be brought in a superior court of law, and upon the request in writing of such defendant, delivered to the officer by whom the goods shall have been seized, or to the Solicitor of Customs, such proceedings may be instituted in a superior court, for which purpose, on notice by the defendant to the justice or justices if proceedings have been already commenced before them, such justice or justices shall adjourn the case for one week to afford the defendant an opportunity of delivering such request; and in order to confer jurisdiction on such superior court it shall be sufficient to state such request on the back of any process to be issued in such case, in the words following, "On the requisition of defendant, who prefers a trial by one of Her Majesty's superior courts of law to a trial before justices," and such endorsement on the process, signed by the Solicitor of Customs, shall be evidence to the court of the same, notwithstanding the provisions herein-before contained: Provided that in any case where proceedings shall have been already commenced before any justice or justices, and the defendant shall be under bail or recognizance to appear before such justice or justices, or in custody for default of such bail,⁽¹⁾ such proceedings shall not be removed, but such justice or justices shall hear and determine the case.

Justices jurisdiction in consent where the sums claimed shall exceed 100*l*.

265. If any suit or prosecution for the recovery or enforcement of any penalty or forfeiture, in which the amount of duties or penalties claimed by the crown shall exceed the sum of one hundred pounds, shall have been commenced in any of the said superior courts, the Commissioners of Customs, at their discretion, may, on the defendant's request in writing to the Solicitor of Customs, order such suit or prosecution to be brought by information before any justice or justices, whereupon such suit or prosecution in such superior court shall cease, and on the production of an order of any two or more Commissioners of Customs directing the bringing such proceeding before such justice or justices, they shall receive such information, and in due course proceed to hear and determine the same.

(1) Recognizances. Secs. 240 & 266.

266. Whenever the Commissioners or the proper officer of Customs shall in any case proceed by information against any person or persons for any offence under this or any other Act relating to the Customs before any justice or justices, instead of instituting such proceeding in the Court of Exchequer, and in which case, if such proceedings were had in such court, a *capias* might issue for the purpose of arresting and holding the offender or offenders to bail,⁽¹⁾ any such justice or justices shall and may, on sufficient information on oath being given before him that the offence charged has been committed, issue his or their warrant to apprehend and bring such offender or offenders before him or any other justice, and on his or their being so brought to require him or them to give by recognizance security to the satisfaction of any such justice in such amount as he may deem sufficient to appear before him or any other justice or justices at a time and place appointed by him or them for the hearing of the case, and in the meantime in default of such security to commit such offender or offenders to gaol, or to the custody of the police or other constabulary force.⁽²⁾

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Where proceedings in the Court of Exchequer by *capias* is waived in favour of the subject, Justices may issue warrant and admit to bail.

267. When by any Act relating to the Customs a penalty jointly and severally incurred by any number of persons, such persons may be proceeded against jointly by one information, or severally by separate informations, as Her Majesty's Attornies-General for England and Ireland, and as the Lord Advocate of Scotland, or the Commissioners of Customs, may deem expedient; and in case of a proceeding against such several persons by joint information for recovery of the penalty or penalties so severally incurred by each, the penalty or penalties shall be recoverable against each, notwithstanding that any one or other of such persons so jointly proceeded against may have allowed judgment to go by confession or default, or that the penalty adjudged to be paid by any one or other of the defendants so jointly sued may be for a different amount from that of the penalty in which any one or other of such several persons may be convicted, or that any one

Penalties joint and several may be sued for by joint and several information.

(¹) *Capias*. Sec. 293.

(²) *Recognizance*. Sec. 240.

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or other of such several persons so jointly prosecuted may be acquitted, and no judgment on any such information shall be reversed or avoided, or error in law alleged therein, on the ground of any such judgment being obtained by confession, or default of any of the persons, nor on account of any difference in the amount of the penalty or penalties in which any one or more of such persons may be convicted, or the acquittal of any such persons; but every such judgment shall be valid and effectual against any or all of the said several persons so jointly proceeded against, and for the full amount of the penalty or penalties in which such person or persons shall have been severally or respectively convicted.

Persons previously convicted may, on verdict be imprisoned in House of Correction.

268. When any verdict shall pass against any person in any Court of Record for any offence for which any pecuniary penalty shall have been inflicted by any Act relating to the Customs, and it shall be made to appear that such person had been previously convicted of any similar offence, the presiding judge or judges may order that such person shall, in lieu of payment of any penalty, be imprisoned in any House of Correction for a period not less than six nor more than twelve months, and the Governor or keeper of such House of Correction is hereby required to receive any person committed under such order.()'

*Proceedings
before Justices.*

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As to Proceedings before Justices for Recovery of Penalties and Forfeitures, and the Prosecution of Offences.

Informations convictions, &c. to be in form, &c. in schedule.

269. All informations exhibited before any justice or justices for any offence committed against or forfeiture incurred under this or any other Act relating to the Customs, and all summonses, convictions, and condemnations for such offences, and forfeitures, and all warrants of any justice or justices founded upon such convictions, may be in the form or to the effect in schedule B to this Act; and the form of information given in the said schedule, and the counts therein contained, with reference to any offences created by or punishable under the several sections of this Act to which the same or any of them relate, shall be applicable to and

(') Like power given to Justices. Secs. 284, 287.

sufficient for all purposes in the prosecution of such offences and forfeitures;⁽¹⁾ and where two or more counts are given upon the same section those counts may be used which apply most nearly to the circumstances of the case; and any one or more of the said counts may be included in the same information together with any other count or counts; and in any case or for any offence or forfeiture for which no count is given in the said schedule, such count or counts may be substituted or added as circumstances may require; and every such information and every conviction and warrant of commitment or condemnation for such offence or forfeiture shall be deemed valid and sufficient in which the offence or forfeiture is set forth either in the words of the Act or Acts by which the penalty for such offence has been inflicted or under which any forfeiture has been incurred, or in the words of the information by this Act prescribed, and where in any such forms the word "Customs" is used to describe the Commissioners or officers of Customs, the words "Inland revenue" or "Excise" may be substituted, as the case may require, and the like counts shall be applicable to and sufficient for the like purposes, and be used in like manner in any information filed in any court having jurisdiction in such cases under this or any Act relating to the Customs; and no conviction, warrant of commitment, or condemnation shall be held void by reason of any defect therein;⁽²⁾ and no party shall be entitled to be discharged out of custody on account of such defect, provided it be alleged in such warrant that the said party has been convicted of such offence, and that it shall appear to the court or judge before whom such warrant is returned that such conviction proceeded upon good and valid grounds; and every such warrant may be executed by any officer of Customs, and in any part of the United Kingdom, without further endorsement or sanction than that of the justice issuing the same; and no objection shall be taken or allowed to any information, complaint, or summons for any alleged defect therein in substance or in form, or for any variance between

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(1) *Onus probandi.* Secs. 211, 305, 306, 307, 308.

(2) Justices may amend. Sec. 290.

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Justices may
summon of-
fender.

Summons to be
served person-
ally, or by leav-
ing same at
place of abode
or on board
ship.

On attendance
of the party the
day and at
place appointed,
justices may
hear and deter-
mine the case.

such information, complaint, or summons and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint.

270. Upon the exhibiting of any information or complaint before any justice or justices for any offence against this or any Act relating to the Customs, for which offence the party charged is not liable to be detained, or by which information any penalty or forfeiture shall be sought to be recovered, or any punishment of hard labour sought to be inflicted, and where such information shall have been exhibited before such justice or justices within three years next after the date of the offence committed,⁽¹⁾ such justice or justices or any other justice or justices having jurisdiction in that behalf from time to time and at any time afterwards may issue his or their summons directed to such party, stating shortly the matter of such information or complaint, and requiring him personally to appear at a certain time and place before the same or any other justice or justices to answer to the said information or complaint, and to be further dealt with according to law; and every such summons shall be served by any officer of Customs or Excise, or by any person to whom the same shall be delivered for that purpose, upon the party to whom it is so directed, by delivering the same to the party personally, or by leaving the same at his last known place of abode, or on board any ship or vessel to which such party may belong or may have lately belonged, and every such summons so served shall be deemed sufficiently served.⁽²⁾

271. If on the day and at the place appointed in such summons as aforesaid the party so summoned shall appear before the justice or justices who are to hear and determine such complaint or information, then such justice or justices shall proceed to hear and determine the same, and upon proof of the matter contained in such complaint or information, either upon the confession of the party or upon the oath of one or more credible witness or witnesses, shall convict the party charged in such complaint or information.

⁽¹⁾ Limitation. Sec. 303.

⁽²⁾ Also Sec. 273. As to subpoena and capias. Sec. 294.

272. If upon the day and at the place appointed in and by such summons for the appearance of the party so summoned, in case he shall fail to appear in obedience to such summons, then and in every such case, if it be proved upon oath or affirmation to the justice or justices then present that such summons was duly served upon such party at a reasonable time before the time appointed for his appearance as aforesaid, it shall be lawful for such justice or justices to proceed *ex parte* to the hearing of such information or complaint, and to adjudicate thereon as fully and effectually to all intents and purposes as if such party had personally appeared before him or them in obedience to such summons.

Legal Proceedings generally.

If party summoned to answer do not appear, Justice to proceed as if he had appeared.

273. When any information shall have been exhibited before any justice for the forfeiture of any goods whatsoever seized under this or any Act relating to the Customs, it shall be lawful for such justice and he is hereby required to summon the party to whom such goods belonged, or from whom they were seized, to appear before him or any other justice or justices, and such summons directed to the party being left at his last place of abode, or on board any ship to which such party may belong or have lately belonged, shall be deemed to have been sufficiently served, and upon his or their appearance or default such justice or justices may proceed to the examination of the matter, and upon due proof that the goods are liable to forfeiture under this or any Act relating to the Customs may condemn the said goods.⁽¹⁾

Justices may condemn goods liable to forfeiture.

274. Any justice before whom any complaint or information under this or any other Act relating to the Customs shall be judicially brought may summon any person required as a witness wherever in the United Kingdom such person shall be or reside to appear before him or any other justice or justices to testify what he shall know concerning the matter of such complaint or information; and if any person so summoned shall refuse or neglect to appear at the time and place appointed by such summons, and no just excuse shall be offered for such neglect or refusal, then, after proof upon oath or affirmation that such

Justices may summon witnesses.

(1) As to course of proceeding when a verdict is found for the claimant. Sec. 312.

*Legal
Proceedings
generally.*

Service of sum-
mons.

Penalty for
neglecting to at-
tend.

Offences on the
waters, &c.,
and jurisdic-
tion.

Justice of ad-
joining county
may act when
required.

Justice of
counties to
have concurrent
jurisdiction in
cities, boroughs,
&c., situate in
such counties.

summons was duly served upon such person, either personally or by leaving the same at his last or usual place of abode, or on board any ship to which such person may belong, or who having appeared according to the exigency of such summons shall refuse to take oath, or, if a Quaker or other person having legal power to make affirmation, refuse to affirm, or shall refuse to give evidence or to answer according to the best of his knowledge and belief any legal question required of him, such person shall for every such default or offence forfeit such sum not exceeding fifty pounds as such justice shall see fit.⁽¹⁾

275. Where any offence shall be committed in any place upon the water not being within any county of the United Kingdom, or where the officers have any doubt whether such place is within the boundaries or limits of any such county, such offence shall for the purposes of this Act be deemed and taken to be an offence committed on the High Seas; and for the purpose of giving jurisdiction under this Act every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose, or in any place on land where the offender or person complained against may be or be brought.

276. When the attendance of a justice having jurisdiction in the county where the offence is committed cannot be conveniently obtained, it shall be lawful for any magistrate of any neighbouring or adjoining county to that in which the offence was deemed to have been committed to hear and determine any information exhibited before him, and to have the same powers and authorities in all respects as to any proceedings under this or any other Act relating to the Customs as if he were a justice for the county in which the offence was committed or deemed to be committed.⁽²⁾

277. Where any offence against this or any Act relating to the Customs shall be committed in any city, borough, liberty, division, franchise, or town corporate, any justice or justices having jurisdiction therein, and any justice or justices of any county within

⁽¹⁾ Commissioners of Customs may summon witnesses in certain cases under penalty of £20. Sec. 39.

⁽²⁾ Prosecutions may be tried in any county. Sec. 304.

which the same is or are situated, shall have jurisdiction to hear and determine the same; and all powers vested in any justice or justices of the peace by virtue of this Act shall be and the same are hereby vested in and may be exercised in the Isle of Man or the Channel Islands by any governor, deemster, or other magistrate of the said isle or islands;⁽¹⁾ and for the purposes of this Act the jurisdiction of the magistrates of the borough of Gravesend in the county of Kent shall be deemed to extend on the river Thames from Yantlet Creek to Broadness Point in the Northfleet Hope, and shall include every part of the said river between those limits respectively.

*Legal
Proceedings
generally.*

278. In case of the nonpayment of any penalty incurred for any offence in respect of which the offender is not liable to detention,⁽²⁾ such justice or justices or any other justice or justices may, by warrant under his or their hand and seal, commit such party to any of her Majesty's gaols within his or their jurisdiction, there to remain until the penalty shall be paid.

*Justice may
commit in de-
fault of pay-
ment of penalty
until paid.*

279. Such warrants may be executed in any part of the United Kingdom by any officer of Customs, and such justice or justices are hereby also authorized and required, when such party is convicted of any offence for which the punishment of hard labour is inflicted,⁽³⁾ to commit such party by such warrant to any house of correction, there to be kept to hard labour for such time as may be authorized by this or any other Act relating to the Customs⁽⁴⁾

Officers of Customs may execute warrants of commitment.

280. Where any person shall or may be convicted before any justice or justices as aforesaid in any penalty or penalties incurred as aforesaid, and except as herein-after provided,⁽⁵⁾ the said justice or justices may, in cases where upon consideration of the circumstances they shall deem it expedient so to do, and for a first offence only, mitigate the payment of the said penalty or penalties so as the sum to be paid by such person be not less than one-

*Justices may
mitigate penalties in certain
cases to one
fourth.*

⁽¹⁾ Informations to be exhibited. Sec. 263.

⁽²⁾ Secs. 229, 232, 233, 241, 247, 347.

⁽³⁾ Hard labour. Secs. 235, 244, 247, 251, 284.

⁽⁴⁾ Committal to hard labour. Secs. 285, 286, 287.

⁽⁵⁾ Sec. 281.

*Legal
Proceedings
generally.*

Persons detained and convicted to be committed to gaol for non-payment without mitigation, or to hard labour where required by this Act.

fourth part of the amount of the penalty in which such person shall have been convicted.

281. Any justice or justices before whom any person liable to be detained, and who shall have been detained for any offence against this or any other Act relating to the Customs⁽¹⁾ shall be brought may either on the confession of such person of such offence, or on proof thereof upon oath, convict such person of any such offence, and every person so convicted shall immediately upon such conviction pay, without any mitigation, into the hands of such justice or justices, for the use of her Majesty, the penalty imposed for such offence, or in default thereof the said justice or justices shall, by warrant under his or their hand and seal or hands and seals, commit such person so convicted as aforesaid and making such default as aforesaid to any gaol or prison, there to remain until such penalty shall be paid ;⁽²⁾ and such justice or justices may also, when any such person is convicted of any offence for which the punishment of hard labour is inflicted, commit such person to any house of correction, there to be kept to hard labour for such time as they shall be authorized to do by this or any other Act or Acts relating to the Customs.

Penalties and forfeitures to be paid to Commissioners.

282. All penalties and forfeitures recovered under this or any other Act relating to the Customs shall be paid to the Commissioners of Customs, and all penalties and forfeitures recovered under any Act relating to the Excise shall be paid to the Commissioners of Inland Revenue, or to the persons appointed by such Commissioners respectively to receive the same, and such penalties and forfeitures shall be applied by such Commissioners respectively in such manner as the law directs.⁽³⁾

(1) Detainable offences. Secs. 234, 235, 236, 238, 244.

(2) Alternative of fixed period. Sec. 284.

(3) Disposal of penalties. Secs. 256, 257, 259, 260.

As to the commitment and punishment of offenders after conviction, and the mitigation or increase of such punishment under certain circumstances. *Commitment and Punishment.*

283. Where any person shall have been committed by any justice or justices to any prison for non-payment of any penalty incurred under this or any other Act relating to the Customs less than one hundred pounds, the gaoler or keeper of such prison is hereby authorised and required to discharge such person at the end of six months from the commencement of his imprisonment. Any person committed in default of payment of a penalty less than 100*l.* to be discharged by gaoler in six months if not duly released.

284. Where any person shall have been convicted before any justice or justices of any offence for which any penalty of one hundred pounds or upwards shall have been inflicted by this or any other Act relating to the Customs, the said justice or justices may, if he or they shall think fit, adjudge that such person shall in default of paying such penalty be imprisoned for such offence, if it be a first one, in any gaol within his or their jurisdiction for a period of not less than six nor more than nine months; and if it shall appear that such party had been before convicted of any offence against this or any other Act relating to the Customs, it shall and may be lawful for the said justice or justices, if he or they shall think fit, to order and adjudge that such person shall in lieu of such penalty be imprisoned in any house of correction, and there kept to hard labour for any period not less than six nor more than twelve months.⁽¹⁾ Justices may imprison in default of payment of penalty and if party previously convicted may sentence to hard labour.

285. When any person shall have been convicted of any offence against this or any other Act relating to the Customs for which such person is liable to be sentenced to hard labour, and such conviction shall take place before any justice or justices within whose jurisdiction there is no house of correction, such justice or justices shall and may, by warrant under his or their hands and seals, commit such offender to any gaol within his or their jurisdiction wherein the sentence of hard labour is or can be executed, or to the house of correction nearest to the place where such offender is convicted, for such time as has herein-before been limited Justices may commit to nearest House of Correction, if none in their jurisdiction.

(1) The like in superior courts. Sec. 268, see also sec. 287.

*Legal
Proceedings
generally.*

Justices may
commute hard
labour where
offender is a
female or in-
firm.

If prisoner be
found to have
been previously
convicted, im-
prisonment may
be extended.

Married wo-
men may be
committed.

for a first or subsequent offence respectively; and the governor or keeper of such gaol or house of correction is hereby required to receive such offender and to obey such warrant in all respects as if such gaol or house of correction was within the jurisdiction of such justice or justices.

286. Where any person shall have been convicted of any offence against this or any other Act relating to the Customs for which such person would be liable to be committed to hard labour, it shall and may be lawful for the justice or justices before whom such person is so convicted, if such person be a female or if a male from physical infirmity incapable of hard labour, to order and adjudge that such person shall, in lieu of being subjected to hard labour, be imprisoned in any gaol within their jurisdiction for the period during which such person would have been liable to be kept to hard labour, but in all such cases the cause of mitigation shall be stated in the warrant of commitment.

287. Where any person shall have been convicted before any justice or justices of any offence against this or any other Act relating to the Customs for which such person is liable to be committed to hard labour, and it shall at any time during the imprisonment of such person be made to appear to the said or any other justice or justices that such person had before been convicted of a similar offence, it shall be lawful for such justice or justices and he and they are hereby required to commit such offender to some house of correction to be kept to hard labour for any period not less than nine nor more than twelve months in the whole from the date of the first commitment, and to amend the warrant of commitment accordingly,⁽¹⁾ and without including in such amendment any reference to the former conviction; and any gaoler in whose custody such person shall be is hereby required upon a written order, signed by any justice, to produce such person before such last-mentioned justice.

288. Where any married woman shall be convicted before any justice or justices of any offence against this or any other Act relating to the Customs she shall, in default of paying any

(¹) Power to amend proceedings. Sec. 290.

penalty she may have incurred, be liable to be committed to prison.

Legal Proceedings generally.

289. The actual expenses incurred by any county, city, borough, liberty, division, franchise, or town corporate, in consequence of the commitment of any person to hard labour under this or any Act or Acts relating to the Customs, shall be repaid out of the Consolidated Customs by an order of the Commissioners of the Treasury in such manner and to such amount as they shall direct; and for the necessary subsistence of any poor person confined in any prison in the United Kingdom under or by virtue of any Exchequer or other process for the recovery of any duties or penalties, either upon bond or otherwise, under this or any other Act relating to the Customs, the Commissioners of Customs may allow any sum, not exceeding sevenpence half-penny per diem, to be made for any such poor person out of any money in their hands arising from the duties of Customs.

Actual expenses incurred by the commitment of Smugglers to hard labour to be paid out of Consolidated Customs.

Allowance to poor persons confined for offences against laws of Customs to be made by Commissioners.

As to the removal of proceedings before justices under the Customs Laws.

Removal of Proceedings.

290. No writ of certiorari shall issue to remove any proceedings before any justice or justices under this or any other Act relating to the Customs, nor shall any writ of Habeas Corpus issue to bring up the body of any person who shall have been convicted before any justice or justices under this or any other Act relating to the Customs, unless the party against whom such proceeding shall have been directed, or who shall have been so convicted, or his attorney or agent, shall state by affidavit in writing duly sworn the grounds of objection to such proceedings or conviction; and upon the return to such writ of Certiorari or Habeas Corpus, no objection shall be entertained by the Court other than such as shall have been stated in such affidavit; and any justice or justices shall and may amend any information, conviction, or warrant of commitment for any offence under this or any such Act at any time, whether before or after conviction.

Writs of certiorari and habeas corpus not to issue except on affidavit.

291. No such writ shall issue without notice in writing to the solicitor for the Customs, and no return to any such writ shall be considered by any of Her Majesty's Courts at Westminster,

No writ of habeas without notice to Solicitor of Customs.

*Legal
Proceedings
generally.*

Dublin, or Edinburgh, or the judges thereof, unless there shall be produced to such Court or judge an affidavit in writing duly sworn stating that notice of the issuing of such writ was given to the solicitor of Customs or left at his office four clear days before the return of such writ; and with respect to all such writs there shall be an interval of four clear days at least between the day of issue and the day of the return thereof, and any such writ issuing without notice, or not in conformity with the directions herein contained, shall be void to all intents and purposes.

*Justices clerks
fees.*

*As to justices clerks fees in prosecutions under the Customs
Laws.*

*Justices clerks
fees.*

292. The fees to justices clerks shall be regulated and governed by the table of fees to this Act annexed, and shall be allowed to and taken by such clerks in respect of the matters therein mentioned, in lieu of all other fees heretofore chargeable for the like matters.

*Superior
Courts.*

*Procedure for
penalties.*

As to proceedings in the superior courts for penalties.

293. All suits, prosecutions, or informations for recovery of penalties under this or any Act relating to the Customs in any of Her Majesty's Courts of Record at Westminster, Dublin, or Edinburgh⁽¹⁾ may be commenced either by writ of subpoena or capias as the first process at the election of the Commissioners of Customs, in which shall be specified the amount of the penalty or penalties sued for, and if by capias the person against whom such capias shall issue shall be bound with two sufficient sureties to the party to whom such capias shall be directed to appear in the Court out of which such capias shall issue at the day of the return of such writ to answer such information, and shall likewise at the time of such appearing be bound to Her Majesty, Her heirs and successors, with two sufficient sureties, or, by leave of the Court or a judge, more than two, to be acknowledged in the same Court, to answer and pay all the penalties so sued for, or such other sum, not exceeding the penalty or penalties

(¹) Secs. 263, 264, 265, 322.

sought to be recovered, as the Commissioners of Customs, or the judge upon whose fiat such *capias* shall issue, may see fit, in case such person shall be convicted thereof, or to yield the body of such person to prison, and in default of being bound by such respective sureties the person against whom such *capias* shall issue shall be taken to prison.

*Legal
Proceedings
generally.*
—

294. In any case where the Commissioners shall waive the right of issuing writ of *capias*, and elect to proceed by subpoena, service of a copy of such subpoena, either on the defendant personally or by leaving the same at his last known place of abode, or on board any ship or vessel to which such defendant may belong or have lately belonged, shall be deemed to be sufficiently served.⁽¹⁾

*Service of
subpoena.*

295. Any person arrested under such *capias* and imprisoned for want of sufficient bail shall be served with a copy of the information filed against him either personally or by delivery of a true copy thereof to the gaoler, keeper, or turnkey of the prison in which such person shall have been confined; and in default of such person's appearing or pleading to such information for the space of twenty days, to be computed from the date of such service, judgment shall be entered by default; and in case judgment shall be obtained against any such person by default, verdict, or otherwise, and such person shall not pay the sum recovered against him, execution shall thereupon issue, not only against the body of the person so imprisoned as aforesaid, but against all the real and personal estate of such person, or any other person in trust for him, for such sum or sums of money so as aforesaid recovered against him, together with the costs, poundage, fees, and expenses of execution over and above the sum recovered.⁽²⁾

*Judgment by
default if per-
sons in gaol do
not appear, and
plead to inform
ation served.*

296. Every such execution may be directed in the first instance to the sheriff of any county or county of a city or other shrievalty as the party suing out the same may think fit, without reference to the county in which the venue is laid, and without any suggestion of the issuing of any prior writ of execution into such county.

*Execution may
issue to sheriff
of any county
without refer-
ence to county
where venue
laid.*

⁽¹⁾ Secs. 270, 273.

⁽²⁾ Pre-convicts liable to hard labour. Sec. 268.

*Legal
Proceedings
generally.*

Impoverished
persons may
sue in forma
pauperis.

Sheriff to grant
special warrant
on writ of capias
endorsed by
Solicitor of
Customs.

Sheriff indemn-
fied for escape
if warrant
granted at re-
quest of Cus-
toms.

Gaoler to re-
ceive offender.

When offenders
are arrested and
give bail to the
sheriff, the bail
bond to be
assigned to Her
Majesty.

297. Where any person so arrested and imprisoned as aforesaid by virtue of any writ of capias shall be disabled by poverty from making defence to any such information, it shall be competent for such person to petition the Court on affidavit verifying such disability; and the Court on being satisfied of the truth of the facts alleged in such affidavit may assign counsel and attorney to such person, and the counsel and attorney so assigned are hereby required to act for such person without fee.

298. Every sheriff, mayor, bailiff, and other person accustomed to execute the process of the courts, and every under-sheriff, deputy or agent of such sheriff, mayor, or bailiff, is hereby required (on the request of the solicitor or assistant solicitor of Customs, or of any person acting on his behalf, such request to be endorsed on the back of any writ of capias or other process issuing as aforesaid, and signed by such solicitor or by such other person stating his authority,) to grant a special warrant to such persons as shall be named to them by such solicitor or other person for apprehending the person against whom such process shall issue, or in default thereof every such sheriff, mayor, bailiff, under-bailiff, and other person shall be liable to such process of contempt, fines, and penalties as they or any of them are now by any law or custom liable to in case of refusing to execute similar process where the defendant might have been taken thereupon in the usual course of proceeding.

299. Every sheriff, mayor, bailiff, under-sheriff, and other person granting such special warrant shall be indemnified from all liability for the escape of any person who shall be arrested by virtue of such warrant, which escape shall happen from the time of taking such person, until he shall be committed to the proper prison, or be tendered to the gaoler or keeper of such prison, who is hereby required to receive every person so arrested as aforesaid, and give a receipt for his body.

300. If any person shall be arrested under or by virtue of any writ of capias ad respondendum, and the sheriff or other officer shall take bail from such person, such sheriff or other officer, at the request and costs of the prosecutor, shall assign to the Queen's Majesty, Her heirs and successors, the bail bond

taken from such person, by endorsing and attesting the same under his hand and seal in the presence of two or more credible witnesses, which may be done without any stamp, provided the assignment so endorsed be duly stamped before any suit be commenced thereupon, and if such bail bond be forfeited such process shall thereupon issue as on bonds originally made to the Queen's Majesty, Her heirs and successors.

*Legal
Proceedings
generally.*

*As to prosecution by indictment or information for offences against
the Customs Laws.*

*Prosecutions,
&c.*

301. No indictment shall be preferred for any offence against this or any other Act or Acts relating to the Customs or Excise, nor shall any suit be commenced for the recovery of any penalty or forfeiture for any such offence, except in the cases of persons detained and carried before one or more justices in pursuance of such Act or Acts as aforesaid, unless such indictment shall be preferred under the direction of the Commissioners of Customs or Inland Revenue, or unless such suit shall be commenced in the name of Her Majesty's Attorney-General for England or Ireland, or in the name of the Lord Advocate of Scotland, or in the name of some officer of Customs or Excise, under the direction of the said Commissioners respectively.⁽¹⁾

Indictment to be preferred by order of the Commissioners, and suits to be in the name of the Attorney-General or Lord Advocate or of some officer.

302. In any prosecution for recovery of any fine, penalty, or forfeiture incurred under this or any other Act relating to the Customs or Excise, Her Majesty's Attorney-General for England Her Majesty's Attorney-General for Ireland, or the Lord Advocate of Scotland, if satisfied that such fine, penalty, or forfeiture was incurred without any intention of fraud, or that it may be inexpedient to proceed in the said prosecution, may enter a nolle prosequi or otherwise on such information as well with respect to the share of such fine, penalty, or forfeiture to which any officer or officers may be entitled as to the Queen's share thereof.

The Attorney-General or Lord Advocate may enter a nolle prosequi.

303. All suits, indictments, or informations brought or exhibited for any offence against this or any other Act relating to the Customs

Within what time suits, indictments, or informations are to be exhibited.

(1) Mode of procedure. Secs. 263 and 269.

*Legal
Proceedings
generally.*

Indictments or informations may be tried in any county in England, Scotland, or Ireland respectively.

toms in any court, or before any justice or justices, shall be brought or exhibited within three years next after the date of the offence committed.

304. Any indictment, prosecution, or information which may be instituted or brought under the direction of the Commissioners of Customs relating to the Customs shall and may be inquired of examined, tried, and determined in any county of England when the offence is committed in England, and in any county of Scotland when the offence is committed in Scotland, and in any county in Ireland when the offence is committed in Ireland, in such manner and form as if the offence had been committed in the said County where the said indictment or information shall be tried.⁽¹⁾

Proofs in proceedings.

Defendant's proofs in smuggling cases.

As to proofs in proceedings under the Customs Laws in any of the Courts or before justices.

305. If in any prosecution under the direction of the Commissioners of Customs in respect of any goods seized for nonpayment of duties, or any other cause of forfeiture, or for the recovering any penalty or penalties under this or any Act relating to the Customs, any dispute shall arise whether the duties of Customs or Excise have been paid in respect of such goods, or the same have been lawfully imported or lawfully unshipped, or concerning the place from whence such goods were brought, then and in every such case the proof thereof shall be on the defendant in such prosecution.

Averments in smuggling cases.

306. The averment that the Commissioners of Customs or Inland Revenue have directed or elected that any information or proceedings under this or any other Act relating to the Customs or Excise shall be instituted, or that any ship or boat is foreign or belonging wholly or in part to Her Majesty's subjects, or that any person detained or found on board any ship or boat liable to seizure is or is not a subject of Her Majesty, or that any goods thrown overboard, staved, or destroyed were so thrown overboard, staved or destroyed to prevent seizure, or that any goods thrown overboard, staved, or destroyed when chased by any ship or boat in

⁽¹⁾ Jurisdiction of justices. Secs. 275, 276, 277.

Her Majesty's service, or in the service of the Revenue, were so thrown overboard, staved, or destroyed to avoid seizure, or that any person is an officer of Customs or Excise, or that any person was employed for the prevention of smuggling, or that the offence was committed within the limits of any port, or where the offence is committed in any port of the United Kingdom the naming of such port in any information or proceedings, shall be deemed to be sufficient, without proof of such fact or facts, unless the defendant in any such case shall prove to the contrary.

*Legal
Proceedings
generally.*

307. If upon any trial a question shall arise whether any person is an officer of the army, navy, or marines being duly employed for the prevention of smuggling, and on full pay, or an officer of Customs or Excise, his own evidence thereof, or other evidence of his having acted as such shall be deemed sufficient, and such person shall not be required to produce his commission or deputation unless sufficient proof shall be given to the contrary; and every such officer and any person acting in his aid or assistance shall be deemed a competent witness upon the trial of any suit or information on account of any seizure or penalty as aforesaid, notwithstanding such officer or other person may be entitled to the whole or any part of such seizure or penalty, or to any reward upon the conviction of the party charged in such suit or information.

*Vivâ voce
evidence may
be given that a
party is an
officer.*

*Witness compe-
tent although
entitled to part
of seizure or
reward.*

308. Upon the trial of any issue, or upon any judicial hearing or investigation touching any seizure, penalty, or forfeiture, or other proceeding under any law or laws relating to the Customs or Excise, or incident thereto, where it may be necessary to give proof of any Order issued by the Commissioners of the Treasury, or by the Commissioners of Customs or Inland Revenue respectively, the order, or any letter or instructions referring thereto, which shall have been officially received by any officer of Customs or Excise for his Government, and under which he shall have acted as such officer, shall be admitted and taken as sufficient evidence and proof of such order.⁽¹⁾

*What shall be
deemed suffi-
cient evidence
of an order of
the Treasury or
of the Commis-
sioners of Cust-
oms or Inland
Revenue.*

(1) Orders of Commissioners. Sec. 8.

*Legal
Proceedings
generally.*

*Entry of ap-
pearances.*

Claim to be in
name of bonâ
fide owners.

Verified by
oath of owner-
ship.

If goods owned
by more than
five co-proprie-
tors, two may
make the oath.

If goods owned
by a company
or copartner-
ship the oath
may be made
by public officer
or agent.

*As to the entry of appearances and claims by the owners of vessels
or goods seized by officers of the Customs.*

309. No claim nor appearance shall be permitted to be entered to any information filed for the forfeiture of any ship or goods seized for any cause of forfeiture and returned into any Court unless such claim or appearance be made by or in the true and real name or names of the owner or proprietor of such ship or goods, describing the place of residence and the business or profession of such owner or proprietor; and if such person shall reside at London, Edinburgh, or Dublin, or within the liberties thereof, oath shall be made by him before one of the Judges of the Court into which the said ship or goods are returned, or in which such information is filed, that the said ship, boat, or goods was or were his property at the time of seizure; but if such person shall reside elsewhere, then oath shall be made by the Attorney by whom such claim or appearance shall be entered that he has full authority from such owner to enter the same, and that to the best of his knowledge and belief such ship or goods were at the time of the seizure thereof the bonâ fide property of the person in whose name such claim or appearance is entered;⁽¹⁾ and on failure of making such proof of ownership the ship or goods shall be condemned, and judgment shall be entered thereon by default according to the usual practice of the Court as if no claim or appearance had been made.⁽²⁾

310. When any such ship or goods shall at the time of the seizure thereof be the bonâ fide property of any number of proprietors exceeding five, it shall not be necessary for more than two of such proprietors resident as aforesaid to enter such claim or appearance on the part of themselves and their co-proprietors, or to make such oath as aforesaid.

311. When any such ship or goods shall at the time of the seizure thereof be the property of any Joint Stock Company or of partners in any copartnership actually carrying on trade in any

(1) Notice of claims. Sec. 226.

(2) Boards of Treasury or Customs may give up seizures. Sec. 227.

part of the United Kingdom, such claim and appearance may be entered and oath made by the public officer of such Joint Stock Company, or by any agent for or any one of the partners in any such copartnership; and every person who shall be convicted of taking a false oath as to any or either of the facts hereinbefore required to be sworn to shall be deemed guilty of perjury, and liable to the pains and penalties thereof.

*Legal
proceedings
generally.*
—

312. In case any information or suit shall be tried for any cause of forfeiture, and a verdict shall be found for the claimant, and it shall appear to the Judge before whom such trial was had that there was a probable cause of seizure, such judge shall certify on the record that there was such probable cause, and such certificate shall be a bar, and may be pleaded as such, to any action, indictment, or other proceeding against the party making such seizure; and in case any action, indictment, or other proceeding shall be brought to trial against any person whatsoever on account of any seizure (whether any information shall have been or shall be brought to trial for the condemnation of the same or not), and a verdict shall be given for the plaintiff, if the Court or Judge before whom such action, indictment, or other proceeding shall be tried shall certify, on the record or other written proceedings, that there was probable cause for such seizure, then the plaintiff shall not be entitled to more than twopence damages nor to any costs, nor shall the defendant or defendants in any such prosecution be fined more than one shilling; and the production of such certificate, or a copy thereof, verified by the signature of the officer of the Court having charge thereof, shall be sufficient evidence of such certificate.

In suits on seizure judge may certify probable cause in bar.

As to actions against officers of Customs.

*Actions against
officers.*
—

313. No action or suit shall be commenced against any officer of the Army, Navy, Marines, Customs, or Excise, or against any person acting under the direction of the Commissioners of Customs, for anything done in the execution of or by reason of his office, until one month next after notice in writing shall have been delivered to him or left at his usual place of abode by the attorney or agent of the plaintiff, in which notice shall be clearly stated the cause of action, the name and place of abode of the plaintiff,

*One month's
notice of action
to officer before
process.*

*Legal
Proceedings
generally.*

and the name and place of abode or business of such attorney or agent, and the attorney or agent mentioned in such notice shall be entitled to a fee of ten shillings for preparing and serving such notice ; and if any action or suit shall be commenced against any such officer or other person, and no such notice shall have been given, such officer or other person may call upon the plaintiff to establish, to the satisfaction of the court, on affidavits on both sides, that such action or suit is brought for some act, matter, or thing not done in the execution of or by reason of his office, and if the plaintiff shall fail so to satisfy the court, such action or suit shall discontinue : Provided always, that if the plaintiff shall so satisfy the court, he shall not be allowed on the trial of such action to give evidence of any cause of action other than such as shall have been disclosed in his said affidavit.

*Evidence li-
mitted to subject
in notice.*

314. Upon the trial of any action brought in pursuance of such notice the plaintiff shall not be entitled to a verdict without proving on the trial that such notice had been duly served, and in default of such proof the defendant in such action shall receive a verdict, with costs, nor shall any such plaintiff be at liberty to produce any evidence of any cause of action, except such as has been distinctly stated in such notice.

*Officer may
tender amends.*

315. It shall be lawful for any officer or other person to whom such notice shall be given, at any time within one month after service of such notice as aforesaid, to tender amends to the plaintiff or his agent or attorney, and in case such amends be not accepted to plead such tender in bar of the action, together with the plea of " not guilty," and other pleas, with leave of the Court, where such leave must be obtained pursuant to the " Common Law Procedure Act, 1852 ;" ⁽¹⁾ and if upon the trial of such action the jury shall find the amends so tendered sufficient they shall give a verdict for the defendant, and in such case, or in case the plaintiff shall be nonsuited or discontinue his action, or in case judgment be given for such defendant on demurrer, then such defendant shall be entitled to the like costs as he would have been entitled to if he had pleaded the general issue only ;

(1) 15 & 16 Vict. c. 76, ss. 80 to 88 inclusive.

but if upon issue joined the jury shall find that no amends were tendered, or that the same were insufficient, or shall find against the defendant on such plea or pleas, then they shall give a verdict for the plaintiff, and such damages as they shall think proper, together with costs of suit.

*Legal
proceedings
generally.*

316. In case any such officer or other person as aforesaid shall neglect to tender amends, or shall not have tendered sufficient amends, before the action brought, it shall be lawful for him, by leave of the Court in which such action shall be brought, at any time before the trial of the said action, to pay into Court a sum of money by way of amends, and such proceedings shall be had and taken thereupon, and in relation to the monies so paid into Court, as are prescribed by the seventieth, seventy-first, seventy-second, and seventy-third sections of an Act of the fifteenth and sixteenth years of the reign of Her Majesty Queen Victoria, chapter seventy-six.⁽¹⁾

*Officer omitting
to tender
amends may
pay money into
court.*

317. Every such action against any officer of Customs or other such person as aforesaid shall be commenced within two months after the cause of action shall have arisen; and if such action be brought in respect of any seizure made by such officer or other person, such cause of action shall not be deemed to have arisen until the day after the trial of the information with respect to such seizure, and the venue in such action shall be laid in the county or place where the cause thereof is alleged to have occurred; and the defendant may plead the general issue, and give the special matter in evidence on the trial thereof; and if the plaintiff shall be nonsuited or discontinue, or if upon a verdict or demurrer judgment shall be given against him, the defendant shall be entitled to costs, and have such remedy for recovering the same as any other defendant now has in other cases where costs are legally recoverable.

*Actions against
officers to be
brought within
two months
after cause
arises.*

318. Any party complaining of any illegal seizure of any boat, vessel, or goods may, after service of the notice in writing to the effect, and within the time hereinbefore provided in respect to the bringing of any action or actions in the Superior Courts of

*Actions for
illegal seizures
may be tried in
County Court.*

⁽¹⁾ The "Common Law Procedure Act, 1852." For these sections *vide post* p. clxxxiv.

*Legal
proceedings
generally.*

Common Law,⁽¹⁾ and in case no such amends as hereinbefore provided shall have been tendered, proceed against the officer by whom such seizure shall have been made by plaint in the County Courts in England, or by civil bill in the Assistant Barrister's Court in Ireland, or by summons in the Sheriff's Courts in Scotland : Provided always, that the sum claimed for damages by the party so complaining shall not exceed the amount to which the jurisdiction of the said Courts respectively is limited.⁽²⁾

Venue confined
to district
where action
arises.

319. In the event of any party so complaining as aforesaid resorting for redress to the County Courts in England, the action shall be brought within the district where the cause of action shall have arisen, and the proceedings and conduct of the suit shall be regulated as nearly as the circumstances of the case shall allow in conformity with the provisions of the Acts and Orders which govern the procedure and practice of the said Courts ; and such right of appeal shall be allowed to the parties as is provided by the County Courts Acts in other actions now triable by such Courts : Provided always, that in every such suit or plaint the County Court judge shall hear and determine such case without the assistance of a jury, and that no order for the trial thereof by a jury shall be made by any County Court judge, except upon the written consent of the plaintiff and defendant.

Action brought
in Civil Bill
Court, Ireland

320. Where the party so complaining as aforesaid shall be desirous to bring his suit in the Civil Bill Court in Ireland, he shall bring the same at a general sessions of the peace for the division of the County within which the cause of action shall have arisen, and the proceedings and conduct of the suit shall in like manner be regulated as nearly as the circumstances of the case will allow in conformity with the provisions of the Acts and general rules and orders which govern the procedure and practice of the Civil Bill Courts :⁽³⁾ Provided always, that it shall not be lawful for any party who shall think himself aggrieved by any decree or decision pronounced by any Assistant Barrister on the hearing

(¹) Notice. Sec. 313.

(²) Limited to £100. Sec. 263.

(³) 14 & 15 Vict. c. 57, Ireland.

of any such civil bill to appeal therefrom to the next or any other Judge of Assize, but in lieu of such right of appeal it shall be lawful for the Chairman, Recorder, or Assistant Barrister, in case he shall be of opinion that a question of law only is involved in such proceeding, by consent of the parties respectively, to state a special case under his hand for the opinion of the Chief or any other Baron of the Court of Exchequer in Ireland upon any question of law, and thereupon like proceedings shall be had and a like decision given upon such appeal and special case, and subject, as nearly as the circumstances will allow, to the like provisions as in other cases of appeal, save that without further proof of the facts of the case the decision of the judge shall be given upon such special case.

*Legal
proceedings
generally.*

321. In case the party so complaining as aforesaid shall desire to bring his action in the Sheriff's Court in Scotland, it shall be lawful for him to proceed in the said Court, in which case the proceedings and conduct of the suit shall be regulated as nearly as may be in accordance with the provisions of the Acts and Orders of the Court which govern the procedure and practice of the said Court.

*Action in
Sheriff's Court
in Scotland.*

322. If in any action commenced after the passing of this Act in any of the Superior Courts of Record in England, Ireland, or Scotland, in which the plaintiff shall seek to recover damages for any alleged illegal seizure or detention of any ship or goods, the said plaintiff shall recover a sum not exceeding twenty pounds, such plaintiff shall have judgment to recover such sum only, and no costs, unless at the trial of such cause the judge shall certify on the back of the record either that the case was one that could not be tried, if in England, in the County Court, if in Ireland in the Civil Bill Court, or if in Scotland in the Sheriff's Court, or that although within the jurisdiction of those Courts respectively it nevertheless was a fit case to be tried in one of such Superior Courts, or (in case there shall be no trial) unless the Court or Judge shall make an order to that effect, and it shall not be necessary to enter any suggestion on the record to deprive such plaintiff of costs.

*Where 20l.
only is reco-
vered no costs
to be allowed
unless judge
certifies.*

323. Any person appointed to be solicitor or assistant solicitor

*Legal
proceedings
generally.*

Solicitors clerks,
and officers of
Customs may
conduct cases.

of Her Majesty's Customs, or any clerk duly appointed to act on his behalf or under his or their directions, shall and may in any case relating to the Customs, or under the direction of the Commissioners of Her Majesty's Treasury or Customs, act as counsel, solicitor, attorney-at-law, advocate, or writer to the signet in the prosecution, conduct, or defence of any such case in any Court, jurisdiction, or place in which such case may be instituted, and any such solicitor, assistant solicitor, or clerk, and any officer or officers of Customs, under the order and directions of the Commissioners of Customs, may prosecute, defend, or conduct any proceeding before any magistrate or magistrates, justices or justice of the peace, in any matter relating to the Customs, to be heard or determined by him or them.

*X.
Reciprocity.*

As to reciprocity in commerce between British and Foreign countries.

Queen may re-
strict the privi-
leges of foreign
ships in certain
cases.

324. If it shall be made to appear to Her Majesty that British vessels are subject in any foreign country to any prohibitions or restrictions as to the voyages in which they may engage, or as to the articles which they may import into or export from such country, it shall be lawful for Her Majesty (if she think fit), by Order in Council, to impose such prohibitions or restrictions upon the ships of such foreign country, either as to the voyages in which they may engage or as to the articles which they may import into or export from any part of the United Kingdom or of any British Possession in any part of the world, as Her Majesty may think fit, so as to place the ships of such country on as nearly as possible the same footing in British ports as that on which British ships are placed in the ports of such country.

And may
impose addi-
tional duties.

325. If it shall be made to appear to Her Majesty that British ships are either directly or indirectly subject in any foreign country to any duties or charges of any sort or kind whatsoever from which the national vessels of such country are exempt, or that any duties are imposed upon articles imported or exported in British ships which are not equally imposed upon the like articles imported or exported in national vessels, or that any preference whatsoever is shown either directly or indirectly to national ves-

sels over British vessels, or to articles imported or exported in national vessels over the like articles imported or exported in British vessels, or that British trade and navigation is not placed by such country upon as advantageous a footing as the trade and navigation of the most favoured nation, then and in any such case it shall be lawful for Her Majesty (if she think fit), by order in council, to impose such duty or duties of tonnage upon the ships of such nation entering into or departing from the ports of the United Kingdom, or of any British Possession in any part of the world, or such duty or duties on all goods or on any specified classes of goods, imported or exported in the ships of such nation, as may appear to Her Majesty justly to countervail the disadvantages to which British trade or navigation is so subjected as aforesaid.

Reciprocity.

326. And in every such Order her Majesty may, if she so think fit, specify what ships are to be considered as ships of the country or countries to which such Order applies, and all ships answering the description contained in such Order shall be considered to be ships of such country or countries for the purposes of such Order.

Order in Council to specify ships to which it applies.

327. Her Majesty, by and with the advice of her Privy Council, by any Order or Orders in Council to be issued from time to time, may give such directions and make such regulations touching the trade and commerce to and from any British Possessions on or near the continent of Europe, or within the Mediterranean sea, or in Africa, or within the limits of the East India Company's charter (excepting the possessions of the said Company), as to her Majesty in Council shall appear most expedient and salutary, any thing in this Act to the contrary notwithstanding; and if any goods shall be imported or exported in any manner contrary to any such Order of her Majesty in Council, the same shall be forfeited, together with the ship importing and exporting the same.

The Queen may regulate the trade of certain colonies.

328. If the Legislature or proper Legislative Authority of any of the British Possessions abroad shall present an address to Her Majesty, praying Her Majesty to authorize or permit the conveyance of goods or passengers from one part of such possession to another part thereof in other than British ships, or if the legislatures of any two or more Possessions, which for the purposes of

Queen in council may regulate coasting trade of colonies on their address.

Reciprocity. this Act Her Majesty in Council shall declare to be neighbouring Possessions, shall present addresses or a joint address to Her Majesty, praying Her Majesty to place the trade between them on the footing of a Coasting trade, or of otherwise regulating the same, so far as relates to the vessels in which it is to be carried on, it shall thereupon be lawful for Her Majesty, by Order in Council, so to authorize the conveyance of such goods or passengers, or so to regulate the trade between such neighbouring possessions, as the case may be, on such terms and under such conditions as to Her Majesty may seem good.

Coasting trade of India to be regulated by Governor-General in Council.

329. And with regard to the coasting trade of India, it shall be lawful for the Governor General of India in Council to make any regulations authorizing or permitting the conveyance of goods or passengers from one part of the possessions of the East India Company to another part thereof in other than British ships, subject to such restrictions or regulations as he may think necessary ; and such regulations shall be of equal force and effect with any laws and regulations which the said Governor General in Council is now or may hereafter be authorized to make, and shall be subject to disallowance and repeal in like manner as any other laws or regulations made by the said Governor General in Council, under the laws from time to time in force for the government of the British territories in India, and shall be transmitted to England, and be laid before both Houses of Parliament, in the same manner as any other laws or regulations which the Governor General in Council is now or may hereafter be empowered to make.

Orders to be published in "Gazette," and to be laid before parliament.

330. Every such Order in Council as aforesaid shall, within fourteen days after the issuing thereof, be twice published in the London Gazette, and that a copy thereof shall be laid before both Houses of Parliament within six weeks after the issuing the same, if Parliament be then sitting, and if not, within six weeks after the commencement of the then next session of Parliament.

Orders may be revoked.

331. It shall be lawful for Her Majesty from time to time to revoke any Order or Orders in Council made under the authority of this Act.

As to the acquisition and disposal of lands, &c., for the service of the Customs.

XI.
*Acquisition of
Lands, &c.*

332. All lands which have heretofore been or which shall hereafter be purchased or taken for the use of her Majesty's Customs, together with the rights, members, easements, and appurtenances to the same respectively belonging, except such lands as may be of copyhold tenure, shall be and continue vested in the Secretary for the time being to the Commissioners of Customs and his respective successors in such service, according to the respective nature and quality of the said lands, and the several estates and interests in the same respectively, in trust, for Her Majesty, Her heirs and successors, for the use and service of Her Majesty's Customs; and upon the death of any Secretary, Collector of Customs, or other officer or person in whom any lands or interest therein were vested as a Trustee for the Crown, all the estate and interest therein of such deceased Trustee shall vest in the Secretary for the time being, and be held and dealt with by him upon the same trusts and for the same purposes as if he had been the Trustee originally appointed; and whenever any Act or Deed shall be required to be done by, or the attendance, assent, or concurrence of the Heir-at-law or legal representative of such deceased Trustee shall become necessary in order to the conveyance, assignment, surrender, or other disposition of any such lands, under the direction of the Commissioners of Customs, the Secretary of Customs for the time being shall be deemed to be the Heir-at-law of such deceased Trustee for such purpose.

*Acquisition and
disposal of
Lands, &c.*

Lands and
buildings to be
vested in the
secretary of the
Customs and
his successors.

Secretary for
the time heir-
at-law of de-
ceased trustee.

333. The Secretary of Customs may, under the direction of the Commissioners of Customs, (testified by writing under their hands and seals (1)) sell, exchange, or in any manner dispose of, as well any of the freehold and leasehold lands which shall be so vested in him as also any of the copyhold lands which shall have been surrendered to and vested in any person or persons, and his, her, or their heirs and assigns, in trust for Her said Majesty or any of her predecessors, His, Her, or Their heirs or successors, for the use and service of Her Majesty's Customs, or any part thereof, in

Secretary
under autho-
rity of commis-
sioners, may sell
or let lands
vested in him;

(1) Orders, &c. under hand and seal. Sec. 8.

*Acquisition of
Lands, &c.*

and execute
necessary con-
veyances, &c.

Monies pro-
duced by sale of
such lands to be
paid to the re-
ceiver general.

Treasury may
authorize per-
sons to survey
and mark out
lands, for
watch-houses,
&c. ;

and to treat
with owners.

such manner, for such considerations, and to such persons as the Commissioners of Customs may think fit, and may purchase other lands for the like purposes, and afterwards sell the same, and for that purpose may execute all such conveyances, assignments, and agreements as may be necessary for effectually conveying and assigning the same.

334. The monies produced by sales or exchange of any of the said lands, including the monies already paid by way of deposit for the purchase of any lands already contracted to be sold and the residue of the monies to be received in respect or on account of such contract, shall be paid by the respective purchaser or purchasers thereof, or the person or persons making such exchange, to the Receiver General of Customs for the time being, or to such person as the said Commissioners for the time being, or any two or more of them, shall appoint to receive the same, in trust for Her Majesty, Her heirs and successors for the use of the said Customs ; and the receipt of the said Receiver General, or such other person as aforesaid, for such monies (such receipt to be endorsed on every such conveyance, surrender, or assignment,) shall effectually discharge the purchaser or person by whom or on whose account the same shall be paid.

335. The Commissioners of the Treasury may, from time to time, by any writing under their hands, authorize any person to survey and make out any lands, not exceeding one half acre at any one station, which may be wanted for the purpose of erecting watch-houses, dwelling houses, and other buildings requisite for the security and protection of the revenues of Customs and Excise, with all necessary ways unto and from the same, such lands being situated within half a mile of the seashore or of the tideway of any navigable river, and may authorize any person by warrant to treat and agree with the owner or owners of or any person or persons interested in any such lands as aforesaid for such estate or interest therein, or for the absolute purchase thereof, or for the possession thereof for such term of years as the public service may require.

336. When parties, being seised, possessed of, or entitled to any such lands, or any estate or interest therein, labour under any disability to sell, release, convey, or assign the same, or to con-

tract for the grant of any lease of such lands, either for any term of years or for such periods as the public service shall require, the seventh section of the Lands Clauses Consolidation Act, 1845, (England),⁽¹⁾ and the seventh section of the Lands Clauses Consolidation Act, 1845 (Scotland),⁽²⁾ shall apply to the cases of the parties so disabled or incapacitated, in whatever part of the United Kingdom the said lands may be situate; and the said sections are hereby respectively made a part of and incorporated with this Act, and shall be applicable to parties so seised or entitled as aforesaid in any part of the United Kingdom; and for the purpose of this Act the expression "The promoters of the Undertaking," wherever used in the said clauses of the Lands Clauses Acts, shall mean the person authorized as aforesaid by the Commissioners of the Treasury.⁽³⁾

*Acquisition of
Lands, &c.*

Parties seised
or entitled to
lands under
disability em-
powered to sell
or convey to
Treasury or
Customs.

337. In case any bodies or other persons authorized by the clauses of the Acts lastly hereinbefore mentioned to sell or demise lands so marked out as aforesaid shall for the space of fourteen days (next after notice in writing, subscribed by such person authorized as aforesaid, shall have been given to the principal officer or officers of any such body, or to such other persons hereby authorized to contract on behalf of others or interested themselves as aforesaid, or left at his or their usual place of abode, if any such can after diligent inquiry be found, and in case any such parties shall be absent from the United Kingdom, or cannot be found after diligent enquiry, left with the occupier of such land, or if there be no such occupier shall be affixed on some conspicuous part of such lands,) refuse to treat or agree, or by reason of absence shall be prevented from treating or agreeing, with such person authorized as aforesaid, or shall refuse to accept such annual rent or sum as shall be offered for the hire thereof, either for a time certain or for such period as the public service may require, then and in such case, or in case of disagreement between such bodies or persons so authorized to sell, release, grant, or demise and the person so authorized as aforesaid by the said Commissioners of the Treasury, and in case also it shall not be prac-

Bodies or per-
sons refusing
to treat, or to
accept consid-
eration offered,
Justices and
others may put
Her Majesty's
officers in pos-
session.

(1) For this section *vide post* p. clxxxvi.

(2) For this section *vide post* p. cxcii.

(3) Incorporated clauses. Secs. 338, 339, 345.

Acquisition of Lands, &c. titable to procure by voluntary bargain or sale any other land

Justices and others may have a jury summoned.

situate and required as aforesaid, then and in such case it shall be lawful for two or more Justices to put the officers of Customs in possession of such lands, and for that purpose to issue a warrant under their hands and seals requiring possession to be delivered to such of said officers as shall be named therein; and such person so authorized as aforesaid may issue his warrant to the Sheriff or Sheriffs of the county, riding, stewardry, city, or place wherein such lands shall be situate to summon a jury, and every such Sheriff, upon receipt of such warrant, shall, in the manner required by law, summon a jury of twenty-four common jurymen to meet at a convenient time and place to be appointed by him for that purpose, such time not being less than fourteen nor more than twenty-one days after the receipt of such warrant, and such place not being more than twenty miles distant from the lands in question, unless by consent of the parties interested, and he shall forthwith give notice to the Commissioners of Customs of the time and place so appointed by him: Provided always, that nothing herein shall be construed to extend to any garden or pleasure ground, or to any land immediately contiguous to and used as the curtilage or homestead of any dwelling house.

Mode of proceeding by Jury, &c.

Incorporation of Lands Clauses Consolidation Act (England and Ireland).

As to the mode of proceeding on the inquiry by the jury or juries so summoned as aforesaid.

338. Where the lands the subject of inquiry shall be situate either in England or Ireland, the Lands Clauses Consolidation Act, 1845, from section forty to section sixty-eight inclusively, shall be incorporated with this Act;⁽¹⁾ and for the purpose of this Act the expression "the promoters of the undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean the person authorized as aforesaid by the Commissioners of the Treasury.

Incorporation of Lands Clauses Consolidation Act (Scotland).

339. Where the lands the subject of inquiry shall be situate in Scotland, the Lands Clauses Consolidation Act, 1845 (Scotland), from thirty-eight to sixty-eight inclusively, shall be incorporated with this Act;⁽²⁾ and for the purpose of this Act the expression

⁽¹⁾ For these sections *vide post* p. clxxxvi. *et seq.*

⁽²⁾ For these sections *vide post* p. xciii. *et seq.*

"the promoters of this undertaking," wherever used in the Lands Acquisition of
 Clauses Consolidation Act, Scotland, shall mean the person so Lands, &c.
 authorized as aforesaid by the Commissioners of the Treasury.

340. The jury impanelled as aforesaid shall ascertain the Jury in ascer-
 taining com-
 pensation for
 premises to
 settle propor-
 tion to be paid
 to lessees.
 compensation to be paid for any such lands, and the proportion
 to be paid out of such compensation to any Lessees or Tenants at
 will, or otherwise, of such lands, and the proportion so to be
 paid shall be returned on the verdict.

341. In all cases where lands shall be taken under the pro- Upon deliver-
 ing up lands
 to the owners
 all erections for
 the public ser-
 vice to be re-
 moved, making
 compensation
 to owners.
 visions of this Act for a term of years or for such period as the
 public service shall require, the Commissioners of the Treasury,
 or any other person so authorized as aforesaid, at any time before
 the possession of lands shall be delivered up to the owner
 thereof, or other person acting on his behalf, shall remove all
 such buildings or other erections which may have been erected
 thereon for the public service, and carry away the materials
 thereof, making such compensation to the owner or owners of
 such lands, or other person or persons acting on his behalf, for
 the damage which may have been done thereto or to the soil
 thereof by the erection of any such buildings, or removing and
 carrying away the same, or otherwise, as the said Commissioners
 of the Treasury or other person authorized as aforesaid shall
 think reasonable, and if such owner or owners, or other person In case of
 dispute com-
 pensation to be
 settled by two
 Justices.
 acting on his behalf, shall not be willing to accept the compen-
 sation so offered, the said Commissioners of the Treasury or
 other person so authorised as aforesaid may require two Justices
 of the Peace of the county, riding, stewartry, city, or place, to
 ascertain the compensation which ought to be made for such
 damage, and such Justices shall ascertain the same, and grant a
 certificate thereof, and the amount of such compensation so
 ascertained and certified shall forthwith be paid by warrant of
 the Commissioners of the Treasury to the person entitled there-
 to: Provided, that nothing herein shall be construed to extend Act not to affect
 agreements be-
 tween the Treas-
 ury and the
 owner.
 to alter, prejudice, or affect any agreement which has or shall
 be entered into by any such person authorized as aforesaid with
 any owner of such lands, or other person acting on his behalf
 in relation to such buildings or erections.

*Acquisition of
Lands, &c.*

*Application of
Purchase
Money.*

Money given
for lands be-
longing to in-
capacitated per-
sons, &c., to be
paid to the
proper officer
of the Exche-
quer for their
use;

and upon his
certificate of
receipt lands
may be vested
in Her Majesty.

Barons of Ex-
chequer upon
application of
parties inter-
ested may or-
der disposal of
money depo-
sited.

*As to the application of purchase monies, &c. for lands purchased
or taken from parties under disability, &c.*

342. In all cases where any money shall have been or shall be agreed, or shall have been or shall be found by the verdict of any jury to be paid for the use or possession of lands taken by virtue of this Act belonging to any person under any disability or incapacity, or not having the absolute interest therein, the same shall be paid by Warrant of the Commissioners of the Treasury to the proper officer of the Court of Exchequer at Westminster, Edinburgh, or Dublin respectively for the time being for receiving the monies belonging to the suitors of the said Court, for the use of such person, and such officer is hereby authorized and required to receive and give a discharge for such money, and upon receipt thereof to sign a Certificate to the Barons of the said Courts of Exchequer respectively, under his hand, signifying that such money was received by him for the use of such person who shall be named in such Certificate, and the said Certificate shall be filed in the said Court of Exchequer at Westminster, Edinburgh, or Dublin respectively, as the case may be, and a copy thereof, signed by such officer, shall be read and allowed as evidence for the purposes hereinafter mentioned, and such officer is hereby required, upon receipt of any such sum of money as aforesaid, to pay the same into the Bank of England, or Bank of Scotland, or Royal Bank of Scotland, or Bank of Ireland, as the case may require, and immediately upon the filing of such certificate the said lands shall be vested in or to the use of her Majesty, Her heirs and successors.

343. Upon the application by petition of any party making claim to the money so deposited, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the Barons of the Court of Exchequer at Westminster, Edinburgh, or Dublin may in a summary way, as to them shall seem fit, order such money to be invested in the Public Funds, or may order distribution thereof, or payment of the Dividends thereof, according to the respective interests of the parties making claim to such monies or

lands or any part thereof, and may make such other order in the premises as the Court shall deem fit.

Acquisition of Lands, &c.

344. Upon the death, removal, or resignation of any such officer of the said Courts of Exchequer, all stocks and securities vested in him by virtue of this Act shall vest in the succeeding officer of the Exchequer for the purposes herein-before mentioned, without any assignment or transfer; and all monies paid in the said banks respectively in pursuance of this Act, or remaining in the hands of any such officer at his death, resignation, or removal, and not vested in the funds or placed out on securities, as aforesaid, shall be paid over to the succeeding officer for the like purpose for the time being.

On the death or removal of officer of Exchequer, stocks and securities shall vest in his successor.

And as to the Costs of Conveyances or Leases of Lands under this Act.

Costs of Conveyance, &c.

345. Sections eighty-one, eighty-two, and eighty-three of the Lands Clauses Consolidation Act, 1845, shall be and are hereby incorporated with this Act,⁽¹⁾ so far as the same shall relate to the conveyance or demise of lands in England and Ireland; and sections eighty, eighty-one, and eighty-two of the Lands Clauses Consolidation Act (Scotland),² shall be and are hereby incorporated with this Act, so far as the same shall relate to the conveyance or demise of lands in Scotland; the expression of "The Promoters of the Undertaking," wherever used in the said Acts respectively, to mean the persons so authorized as aforesaid by the Commissioners of the Treasury.

Certain sections of Lands Clauses Consolidation Acts incorporated.

AS TO THE ISLE OF MAN.

XII. *Isle of Man.*

346. The Isle of Man shall be deemed and taken to be part of the United Kingdom for all the purposes of this Act, but nothing herein contained shall prejudice or affect, or be construed in any way directly or indirectly to prejudice or affect, any of the rights or privileges legally exercised or enjoyed by the said Isle at the time of the passing of this Act.

Isle of Man to be deemed part of United Kingdom for the purposes of this Act.

347. No foreign goods upon which a higher duty is payable on their importation into Great Britain or Ireland than on their

Goods delivered out of charge of Customs in

⁽¹⁾ For these sections *vide post* p. cxc. *et seq.*

⁽²⁾ For these sections *vide post* p. cxcvii. *et seq.*

*Acquisition of
Lands, &c.*

the Isle of Man
not be brought
into Great Bri-
tain or Ireland.
Goods brought
to Isle of Man
but not deliv-
ered out of
charge of Cus-
toms may be
brought to
Great Britain
or Ireland,
under condi-
tions.

importation into the Isle of Man shall, after the same have been cleared and delivered out of charge of the proper officers of Customs for consumption or otherwise in the said Isle, be carried or shipped or be waterborne or be brought to any quay, wharf, or other place to be shipped or waterborne to be carried from the said Isle into Great Britain or Ireland; nor shall any such goods which may be brought to the said Isle, though not cleared and delivered as aforesaid, be removed or carried from thence into Great Britain or Ireland until the same shall have been duly cleared for that purpose by the proper officer of Customs, nor (unless reported for removal in the same ship and in continuation of the voyage to some port in Great Britain or Ireland,) until sufficient security by bond or otherwise shall have been given, in such manner and on such terms and conditions as the Commissioners of Customs may direct, for the due delivery thereof at some port or place in Great Britain or Ireland; and all goods carried, brought, shipped, removed, or waterborne to be shipped, removed, or carried contrary hereto shall be forfeited, and every person who shall carry, ship, bring, remove, or waterbear to be shipped, removed, or carried any goods contrary hereto, or who shall aid or be concerned therein, shall forfeit treble the value of such goods, or the sum of one hundred pounds, at the election of the Commissioners of Customs.⁽¹⁾

Goods, the
growth or
manufacture of
Isle of Man,
may be im-
ported into
Great Britain
or Ireland on
certificate, &c.

348. Any goods, the growth of the Isle of Man, or there manufactured from materials the growth of the said Isle, or from materials not subject to duties in Great Britain or Ireland, or from materials upon which the duty has been paid in Great Britain or Ireland and upon which no drawback has been subsequently granted, may be brought from the said Isle into Great Britain or Ireland without payment of any duty: Provided always, that such goods may nevertheless be charged with such proportion of such duties as shall fairly countervail any duties of Excise⁽²⁾ payable on the like sort of goods the produce of that part of the United Kingdom into which they shall be brought, and any articles, either wholly or in part manufactured in the said Isle

⁽¹⁾ Proceedings. Secs. 263, 269, 270, 271, 272, 278, 280, 283.

⁽²⁾ Not to be unladen without permission of officer of Excise. Sec. 157.

from any materials upon which a higher duty is payable upon *Isle of Man.* their importation into the United Kingdom than on their importation into the Isle of Man, may be brought from the said Isle into Great Britain or Ireland on payment of the duty payable on such goods in that part of the United Kingdom into which they shall be so brought.

349. Before any goods shall be shipped in the Isle of Man to be carried to Great Britain or Ireland, as the growth or produce of that isle, or as manufactures of that isle from materials the growth and produce thereof, or from materials not subject to duty in Great Britain or Ireland, or from materials upon which the duties shall have been paid and not drawn back in Great Britain or Ireland, proof shall be made by the written declaration of some competent person, to the satisfaction of the Collector or Comptroller of Customs at the port of shipment, that such goods (describing and identifying them) are of such growth, produce, or manufacture, as the case may be, and in such declaration shall be stated the name of the person by whom such goods are intended to be shipped, and such person, at the time of shipping, (not being more than one month after the date of such declaration,) shall make and subscribe a declaration before such Collector or Comptroller, that the goods to be shipped are the same as are mentioned in such declaration, and thereupon the Collector or Comptroller shall, on demand, give to the master of the ship in which the goods are to be exported, a Certificate of such proof of produce or of manufacture, describing the same, and setting forth the name of the party and of the ship and of the master thereof, and the destination of the goods.⁽¹⁾

350. Nothing herein contained shall be deemed or construed to affect the laws and regulations now in force respecting duties and drawbacks of Excise on goods removed to the Isle of Man. Act not to affect Excise drawbacks.

351. If any ship or boat bound from the Isle of Man to Great Britain or Ireland shall have on board any stores of spirits, tobacco, or tea for the use of the crew exceeding the quantities specified in the following table, such stores, together with the Stores of Manx ships.

(1) Sec. 157.

Isle of Man. casks or packages containing the same, and also the ship or boat, shall be forfeited.

TABLE.

	In Ships or Decked Vessels.	In open Boats.
Spirits for each Seaman . .	Half a Gallon .	One Quart.
Tobacco for each Seaman . .	One Pound .	Half a Pound.
Tea for the whole Crew . .	Two Pounds .	One Pound.

Treasury may
restrict imports.

352. The Commissioners of the Treasury shall and may at any time, if they see fit, by order under their hands, restrict or limit the importation into the Isle of Man of any foreign goods to such quantities per annum and in such manner as they may deem necessary, and also determine into what ports in the Isle of Man and from what places such goods may be imported.

Management
of duties.

Duties to be
paid into the Ex-
chequer.

353. The duties of Customs payable on the importation of goods into the Isle of Man shall be collected, paid, recovered, and accounted for under the management and control of the Commissioners of her Majesty's Customs; and, except the necessary charges of collecting, recovering, and accounting for the same, the said duties shall from time to time (subject to the deductions hereinafter mentioned) be brought and paid into the receipt of her Majesty's Exchequer, distinctly and apart from all other branches of the public revenue, and shall go to and make part of the Consolidated Fund of the United Kingdom of Great Britain and Ireland; Provided always, that any of the Collectors of Customs of the said isle shall retain, and he and they is and are hereby authorized and required, agreeably to such directions as shall from time to time be given for that purpose by the Commissioners of Her Majesty's Customs, to retain, such sum or sums of money in his or their hands as may be sufficient to defray the necessary expenses attending the government of the said Isle of Man and the administration of justice there, and other charges incurred in the said Isle, which have heretofore been or may hereafter be deemed fit and proper charges to be deducted from and paid out of the duties of Customs collected in the said Isle of Man; and upon the amount of the said expenses and charges

Part of duties
may be retained
for expenses
of the govern-
ment.

being ascertained, the said Commissioners are hereby authorized *Isle of Man.* to direct the same to be paid out of the said monies so retained to such person or persons as may be entitled to receive the same.

354. The necessary expenses attending the government of the Isle of Man and the administration of justice there, and other charges incurred in the said Isle, which have heretofore been deemed fit and proper charges to be deducted from and paid out of the duties of Customs collected in the said Isle, or which may hereafter be deemed proper charges, and also the annual sum of two thousand three hundred pounds made payable by an Act passed in the eighth and ninth years of the reign of her present Majesty, chapter ninety-four, section twenty-five, to her Majesty's Receiver General in the said Isle of Man, and to be applied for the lawful purposes of the Harbour Commissioners therein mentioned, shall and may be retained and paid by the Collector of Customs of the said Isle out of the duties of Customs collected in the said Isle, as hereinbefore provided.

Expenses of the government, and £,300l. per annum to harbour commissioners of Isle of Man, to be paid by Customs.

355. In addition to the deductions from the Customs duties hereinbefore provided for, there shall be set aside annually a sum equal to one-ninth part of the amount derived from such duties, to be applied by the Commissioners of the Treasury in effecting improvements in the harbours and other public works in the Isle of Man, the necessary repairs and improvements in the harbours taking priority to other public works; and it shall be lawful for the Court of Tynwald from time to time to determine what improvements and public works shall be so undertaken, the Lieutenant Governor having a veto upon such decision.

Additional allowance for public works in Isle of Man.

As to general orders and regulations.

356. The Commissioners of Customs shall, as soon as conveniently may be after the commencement of each year, cause to be printed all general orders made by them for the regulation of the Customs during the preceding year.

General orders to be printed

Interpretation
of terms.

As to the interpretation of terms used in this Act.

357. For the purposes of this Act,—

- “ Assistant Barrister ” shall, with respect to matters or proceedings in the county of Dublin, be construed as meaning the Chairman of Kilmainham, and with respect to matters or proceedings in the city of Dublin, be construed as meaning the Recorder of the city of Dublin :
- “ Attorney General ” shall include Solicitor General or other chief law officer of the Crown in any of Her Majesty’s possessions abroad where there is no Attorney General :
- “ British possession ” shall include colony, plantation, island, territory, or settlement belonging to Her Majesty :
- “ Channel Islands ” shall mean the islands of Guernsey, Jersey, Alderney, and Sark :
- “ Collector and Comptroller ” generally, wherever any Act, matter, or thing shall or may be required by this or any other Act of Parliament to be done by or with the Collector and Comptroller of any port or place, the same may be done by or with the Collector or Comptroller or other principal acting officer of Customs at such port or place, and be as valid and effectual as if done by or with any Collector and Comptroller :
- “ Commissioners of the Treasury ” shall mean the Lords Commissioners of Her Majesty’s Treasury :
- “ Commissioners of Customs ” shall mean the Commissioners of Her Majesty’s Customs :
- “ County ” shall mean and include any city, county of a city, county of a town, borough, or other magisterial jurisdiction, or any place or district enumerated in section two hundred and seventy-four of this Act, unless there be something in the subject or context repugnant to such construction :
- “ Drawback ” shall include Bounty ;
- “ Her Majesty ” shall mean Her Majesty, Her heirs and successors :

- "Justice" shall mean justice of the peace, and include deemster or any other magistrate :
- "Landing waiter" shall include any officer duly authorized to superintend the landing and examination of goods on their importation :
- "Limits of East India Company's Charter" shall mean the Cape of Good Hope and all places and seas eastward thereof to the Straits of Magellan :
- "Master" shall mean the person having or taking the charge or command of any ship :
- "Queen's warehouse" shall mean any place provided by the Crown for lodging goods therein for security of the Customs ;
- "Seaman" shall include mate, mariner, sailor, or landsman, being one of the crew of any ship ;
- "Ship" shall mean ship or vessel of any description, unless used to distinguish a ship from a sloop or some other description of vessel :
- "Warehouse" shall mean any place in which goods entered to be warehoused may be lodged, kept, and secured.

As to the repeal of existing Acts.

358. The several Acts and parts of Acts set forth in Schedule (A.) to this Act annexed are hereby repealed, to the extent to which such Acts or parts of Acts are by such Schedule expressed to be repealed, except as to anything done before the commencement of this Act, and except so far as relates to any arrears of duty or to any drawback which shall have become due or payable, and except so far as may be necessary for the purpose of supporting or continuing any proceeding heretofore taken or to be taken after the commencement of this Act, and except as to the recovery or application of any penalty for any offence which shall have been committed or any forfeiture which shall have been incurred before the commencement of this Act ; and all orders made by her Majesty in Council, all bonds taken or licences granted, and all things done under the authority or in pursuance

Acts set forth
in Schedule
repealed.

Orders, &c.,
under Acts re-
pealed to be
valid.

of any of the Acts hereby repealed, shall nevertheless be valid and effectual.

Act to be registered in royal courts of Guernsey and Jersey.

359. This Act shall be registered in the Royal Courts of the Islands of Guernsey and Jersey respectively, and the said Royal Courts respectively shall have full power and authority and are hereby required to register the same.

Commencement and short title of Act.

360. This Act shall come into operation on the day of the passing of this Act, and in citing it in other Acts of Parliament and in legal instruments it shall be sufficient to use the expression "The Customs Consolidation Act, 1853."

SCHEDULE (A.) of Acts to be repealed.

Date of Act.	Title of Act.	Extent of Repeal.
6 Geo. 4. c. 41.	- An Act to repeal the Stamp Duties payable in Great Britain and Ireland upon the Transfer of Property in Ships and Vessels, and upon Bonds and Debentures required to be given in relation to the Duties, Drawbacks, and Bounties of Customs or Excise, and to grant other Duties of Stamps on such Bonds and Debentures.	Section 4, so far as relates to Her Majesty's Customs.
8 & 9 Vict. c. 85.	- An Act for the Management of the Customs	The whole Act, except Sections 2 and 3.
8 & 9 Vict. c. 86.	- An Act for the general Regulation of the Customs	The whole Act, except Sections 45, 139, and 140, and Section 53, so far as relates to Scotland.
8 & 9 Vict. c. 87.	- An Act for the Prevention of Smuggling	- The whole Act, except Sections 10 and 124.
8 & 9 Vict. c. 90.	- An Act for granting Duties of Customs	- The whole Act.
8 & 9 Vict. c. 91.	- An Act for the warehousing of Goods	- The whole Act, except Section 51.
8 & 9 Vict. c. 92.	- An Act to grant Bounties and Allowances of Customs	The whole Act.
8 & 9 Vict. c. 93.	- An Act to regulate the Trade of British Possessions abroad.	The whole Act.
8 & 9 Vict. c. 94.	- An Act for the regulating the Trade of the Isle of Man.	The whole Act.
9 & 10 Vict. c. 23.	- An Act to alter certain Duties of Customs	- The whole Act.
9 & 10 Vict. c. 102.	- An Act to amend the Laws relating to the Customs	The whole Act.
10 Vict. c. 23.	- An Act to alter certain Duties of Customs	- The whole Act.
11 & 12 Vict. c. 60.	- An Act to alter the Duties payable upon the Importation of Spirits or Strong Waters	The whole Act.
11 & 12 Vict. c. 97.	- An Act to repeal the Duties of Customs upon the Importation of Sugar, and to impose new Duties in lieu thereof.	The whole Act.
12 & 13 Vict. c. 29.	- An Act to amend the Laws in force for the Encouragement of British Shipping and Navigation.	The whole Act, except Sections 7, 8, 9, 17, 18, 19, and 20.
12 & 13 Vict. c. 90.	- An Act to amend the Laws relating to the Customs.	The whole Act, except Sections 41, 42, and 43.
13 & 14 Vict. c. 95.	- An Act to amend the Laws relating to the Customs.	The whole Act, except Section 14.
14 & 15 Vict. c. 62.	- An Act to alter certain Duties of Customs, and to enable the Treasury to regulate the Mode of keeping the Account between the Receiver General of Customs and the Bank of England.	The whole Act.

SCHEDULE B. SCHEDULE (B.) referred to in the foregoing Act.

FORM OF INFORMATION BEFORE JUSTICES OF THE PEACE.

BE it remembered, that *A. B.*, an Officer of Customs, under the direction of the Commissioners of Customs, informs me, _____, one of Her Majesty's Justices of the Peace in and for the _____ of _____

COUNT 1.

On Sec. 234. That *C. D.* did unship, or was aiding or concerned in unshipping or otherwise dealing with certain Goods, to wit [*here mention the goods generally*] contrary to section 234 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of _____, being treble the value of the said Goods, [*or "the penalty of One hundred Pounds," as the case may be,*] for which the Commissioners have elected to sue.

COUNT 2.

On Sec. 235. That *C. D.* being [*or, "not being," as the case may be,*] a subject of her Majesty, was found or discovered to have been on board a Ship or Boat, Part of the cargo of which was thrown overboard, or staved, or destroyed, to prevent seizure, contrary to section 235 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has become liable to be imprisoned as is therein directed.

COUNT 3.

SCHEDULE B.

That *C. D.* being, [or, "not being," *as the case may be,*] a Subject of Her Majesty, was found or discovered to have been on board a Ship or Boat, contrary to the section 235, of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has become liable to be imprisoned as is therein directed. On Sec. 235.

COUNT 4.

That *C. D.* was found or discovered to have been on board a ship or boat within a port, bay, harbour, river or creek of the United Kingdom, [or, "the Channel Islands," *as the case may be,*] contrary to section 236 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of one hundred pounds. On Sec. 236.

COUNT 5.

That *C. D.* did make and subscribe a false declaration, or document, purporting to be [*here state the nature of the document generally,*] the same being false and untrue, contrary to section 198 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of one hundred pounds. On Sec. 198.

COUNT 6.

That *C. D.* did untruly answer a certain question put to him by an officer of Customs, contrary to section 198 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of one hundred pounds. On Sec. 198.

COUNT 7.

That *C. D.* did counterfeit or falsify [or "wilfully use when counterfeited or falsified," *as the case may be,*] a certain document purporting to be [*here state the nature of the document generally,*] contrary to section 198 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of one hundred pounds. On Sec. 198.

SCHEDULE B.

COUNT 8.

On Sec. 198. That *C. D.* did fraudulently alter [*or* counterfeit, *as the case may be*] the seal, signature, initials, or marks of or used by an officer of Customs, contrary to section 198 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of one hundred pounds.

COUNT 9.

On Sec. 203. That a certain vessel or boat called the whereof *C. D.* was owner, [*or* master, *as the case may be,*] was unlawfully used in importing, landing, removing, carrying or conveying of certain uncustomed or prohibited goods, to wit, [*here mention generally the Goods,*] contrary to section 203 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of _____, which the Commissioners of Customs have directed to be sued for in this case.

COUNT 10.

On Sec. 220. That *C. D.* was driving or conducting a cart, waggon, or other conveyance, and refused to stop, or to allow the examination thereof, when required in the Queen's name, contrary to section 220 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of one hundred pounds.

COUNT 11.

On Sec. 225. That *C. D.* an officer of police, having detained certain Goods, to wit, [*here mention generally the Goods,*] on suspicion of their being stolen, neglected to convey the same to the proper warehouse, [*or,* neglected to give notice thereof to the Commissioners of Customs, *as the case may be,*] contrary to section 225 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of twenty pounds.

COUNT 12.

On Sec. 229. That *C. D.* obstructed a person duly employed for the prevention of smuggling contrary to section 229 of "The Customs

Consolidation Act, 1853," whereby the said *C. D.* has forfeited SCHEDULE B.
the sum of one hundred pounds.

COUNT 13.

That *C. D.* denied the possession of certain foreign goods, to On Sec. 229.
wit, [*here mention generally the goods*], which were afterwards
found to be, or to "have been," [*as the case may be,*] in his
possession contrary to section 229 of "The Customs Consolida-
tion Act, 1853," whereby the said *C. D.* has forfeited the sum
of _____, being treble the value of the said goods.

COUNT 14.

That *C. D.* an officer of _____, did, without reasonable On Sec. 231.
ground, require a certain person, to wit, one *E. F.*, to be searched,
contrary to section 231 of "The Customs Consolidation Act,
1853," whereby the said *C. D.* has forfeited the sum of ten
pounds.

COUNT 15.

That *C. D.* was concerned in importing certain prohibited On Sec. 232.
or restricted goods, to wit, [*here mention generally the goods,*]
contrary to section 232 of "The Customs Consolidation Act,
1853," whereby the said *C. D.* has forfeited the sum of _____
_____, being treble the value of the said goods, [*or, "the*
penalty of one hundred pounds, " as the case may be,] for which
the Commissioners of Customs have elected to sue.

COUNT 16.

That *C. D.* was concerned in unshipping or otherwise dealing On Sec. 232.
with certain prohibited, restricted, or uncustomed goods, to
wit, [*here mention generally the goods*] contrary to section 232
of "The Customs Consolidation Act, 1853," whereby the said
C. D. has forfeited the sum of _____, being
treble the value of the said goods, [*or, "the penalty of one hundred*
pounds, " as the case may be,] for which the Commissioners of
Customs have elected to sue.

SCHEDULE B.

COUNT 17.

On Sec. 232.

That *C. D.* was concerned in the illegal moving of certain goods, to wit, [*here mention generally the goods,*] from a warehouse, or otherwise illegally dealing with the same after they had been so removed, contrary to the provisions of section 232 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of _____, being treble the value of the said goods, [*or, "the penalty of one hundred pounds," as the case may be,*] for which the Commissioners of Customs have elected to sue.

COUNT 18.

On Sec. 232.

That *C. D.* was knowingly concerned in evading duties of Customs upon or in dealing with certain goods, to wit, [*here mention generally the goods,*] with intent to defraud Her Majesty of the duties of Customs in respect thereof, contrary to section 232 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of _____, being treble the value of the goods, [*or, "the penalty of one hundred pounds," as the case may be,*] for which the Commissioners of Customs have elected to sue.

COUNT 19.

On Sec. 233.

That *C. D.* was concerned in the removal of certain goods, to wit, [*here mention generally the goods,*] or otherwise dealing with the same, contrary to section 233 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of _____, being treble the value of the said goods, [*or, "the penalty of one hundred pounds," as the case may be,*] for which the Commissioners of Customs have elected to sue.

COUNT 20.

On Sec. 241.

That *C. D.* offered certain goods for sale, to wit, [*here mention generally the goods,*] contrary to section 241 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has forfeited the sum of _____, being treble the value of the said goods

COUNT' 21.

SCHEDULE B.

That *C. D.* was concerned in the assembling of persons contrary to section 247 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has become liable to be imprisoned as is therein directed.

COUNT 22.

That *C. D.* obstructed persons employed for the prevention of smuggling, *or* was concerned in the rescue *or* attempt at rescue of seized goods, *or* in the destruction *or* attempt at destruction thereof, contrary to section 247 of "The Customs Consolidation Act, 1853," whereby the said *C. D.* has become liable to be imprisoned as is therein directed.

COUNT 23.

That certain goods, to wit, *[here mention generally the goods.]*
 were seized on the _____ day of _____
 for being dealt with contrary to section *[here insert the section in
 figures]* of "The Customs Consolidation Act, 1859," whereby
 the said goods have become liable to forfeiture, and that *C. D.*
 of _____ has claimed the same.

COUNT 24.

That *C. D.* being summoned as a witness, did neglect or refuse On Sec. 274.
to appear, or, *having appeared*, did refuse to take oath or affirm,
or give evidence, or answer, contrary to section 274 of "The
Customs Consolidation Act, 1859," whereby the said *C. D.* has
forfeited the sum of

Exhibited to and before me }
the day of }
in the year of our Lord }

SCHEDULE B.

Form of Summons on Information.

To [C.D.]

to wit. } WHEREAS an information has been exhibited by [A.B.]
an Officer of Customs, under the direction of the Com-
missioners of Customs, before me , one
of Her Majesty's Justices of the Peace for the of
, in the following form [*here copy the
information*].

This is therefore to require you personally to appear before me,
or such other Justice or Justices of the Peace as may be present at
, in the of
, on the day of
next ensuing, at the hour of o'clock in the forenoon
of said day, to answer the said information.

Given under my hand and seal at in
the of this day of
in the year of our Lord

*Form of Summons on Information for Condemnation of
Seizures*

To of
in the of

to wit. } AN information having been preferred by [A.B.] an
Officer of Customs, under the direction of the Com-
missioners of Customs, before me one
of Her Majesty's Justices of the Peace for the of
, for the condemnation of [*here state
the goods*] seized on the day of in
the year of our Lord , for being dealt with
contrary to section of " The Customs Consolidation Act,
1853," and claimed by you.

This is to require you to appear before me, or such other Jus-

tice or Justices of the Peace as may be present at _____, in SCHEDULE B
 the _____ of _____ on the _____ day of _____
 next ensuing, at the hour of _____ o'clock
 in the forenoon of said day, to show cause why the said goods
 should not be condemned as forfeited.

Given under my hand and seal at _____, in
 the _____ of _____ this _____ day of
 _____ in the year of our Lord

Form of Summons for Witnesses.

To

{ You are hereby required personally to be and appear,
 to wit. } on the _____ day of _____ next
 ensuing, at the hour of _____ o'clock in the forenoon,
 at _____ in the _____ of _____
 before me, or such other of Her Majesty's Justices of the Peace for
 the said _____ of _____ as may be then
 and there present, to give evidence and testify the truth, accord-
 ing to your knowledge, concerning the facts alleged in a certain
 information exhibited against *C. D.* under the Customs Consoli-
 dation Act 1853, and herein fail not, under the penalty therein
 provided.

Given under my hand and seal at _____ in
 the _____ of _____ this _____ day of
 _____ in the year of our Lord

Form of Conviction.

{ BE it remembered, That on this _____ day
 to wit. } of _____ in the year of our Lord _____,
 at _____ in the _____ of _____,
C.D. is convicted before me [or us, as the case may be,]
 of Her Majesty's justices of the peace for the
 of _____ : For that he the said *C.D.*, within three
 years now last past [here state the offence as in the information],
 and [where the party has been convicted of an offence punishable

SCHEDULE B. *by pecuniary penalty and imprisonment in default of payment.*] I, or we, adjudge the said C.D. for his said offence to forfeit and pay the sum of _____, which [if such be the case,] I, or we, mitigate to the sum of _____; and if the said sum of _____ be not forthwith paid, I, or we, adjudge the said C.D. to be imprisoned in Her Majesty's gaol at _____ in the _____ of _____ until the same be paid, [or where it shall have been so adjudicated add, instead of the words "until the same be paid," for the period of six months,] unless he shall sooner pay the said sum of _____ or [where the party has been convicted of an offence punishable by imprisonment with hard labour,] I, or we, adjudge the said C.D. for his said offence [and where the party has been previously convicted insert here, "he having been previously convicted,"] to be imprisoned in Her Majesty's House of Correction at _____ in the _____ of _____, and there kept to hard labour for the period of _____ months.

Given under _____ hand and seal at _____ in the _____ of _____, this _____ day of _____ in the year of our Lord _____

Form of Commitment for Nonpayment of a pecuniary Penalty.

_____ } To [A.B.] an officer of Customs, and to the Gaoler or
to wit. } keeper of the Gaol at _____ in
the _____ of _____ [C.D.] having
been this day convicted before me [or us, as the case may be,]
_____ of Her Majesty's justices of the peace
in and for the _____ of _____
upon the information of [A.B] an officer of Customs, under the
direction of the Commissioners of Customs, of having, within
three years now last past, [here state the offence generally, and the
date thereof,] I [or we, as the case may be,] did adjudge that the
said [C.D.] had forfeited for his said offence the sum of
[adding, if mitigated,] which I [or we,

as the case may be,] mitigated to the sum of
which has not been paid.

This is to command you forthwith to convey the said [C.D.],
to the Gaol at _____ in the
of _____, and to deliver him into the cus-
tody of the Gaoler or Keeper of the said Gaol.

And I [or we] the said Justice or Justices [*as the case may be,*]
do hereby authorise and require you, the said Gaoler or Keeper of
the said gaol, to receive the said [C.D.] into your custody, and
him safely to keep in your said Gaol until he shall duly pay the
said sum of _____ or be discharged according
to law [*or, if it be so adjudicated, insert, instead of what follows*
the word "gaol," for the period of six months, unless he shall
sooner pay the said sum of _____].

Given under _____ hand and seal at _____ in
the _____ of _____, this _____ day of
_____ in the year of our Lord

Form of Commitment to Hard Labour.

 } To [A.B.] an Officer of Customs, and to the Gaoler or
to wit. } keeper of the House of Correction at
in the _____ of _____

C.D. having been this day duly convicted before me [*or us, as the*
case may be,] _____ of Her Majesty's Justices of the Peace
for the _____ of _____ upon the
information of [A.B.] an Officer of Customs, under the direction
of the Commissioners of Customs, of having, within three years
now last past, [*here state the offence generally and date thereof,*] I
[*or we, as the case may be,*] did adjudge that the said [C.D.]
should for his said offence [*if previously convicted, say, "he*
having been previously convicted,"] be imprisoned in the House
of Correction at _____ in the said _____

SCHEDULE B. of _____, and be there kept to hard labour for the
period of _____ months.

This is to command you forthwith to convey the said [C.D.] to
the House of Correction at _____ in the
of _____, and to deliver him into the cus-
tody of the Gaoler or Keeper of the said House of Correction, and
I [or we,] the said Justice or Justices, [as the case may be,] do
hereby authorise and require you, the said Gaoler or Keeper of the
said House of Correction, to receive and take the said [C.D.]
into your custody, and him safely to keep to hard labour in your
said House of Correction for the period of _____ months.

Given under _____ hand and seal, at _____ in
the _____ of _____, this _____ day of
_____ in the year of our Lord

Form of Condemnation of seized Goods.

to wit. } BE it remembered, That an information having been
exhibited by [A.B.] an Officer of Customs, under the
direction of the Commissioners of Customs, before me _____,
one of Her Majesty's Justices of the Peace for the said
of _____, for the condemnation of [here state the
goods,] for being dealt with contrary to section _____ of "The
Customs Consolidation Act, 1853," whereby the same became
liable to forfeiture, and which said goods having been claimed by
[U.D.] of _____, who was duly summoned to show
cause why the same should not be condemned as forfeited, and
the forfeiture thereof having been duly proved before me, or us,
[as the case may be,] I, or we [as the case may be,] do adjudge the
same to be forfeited, and do condemn the same accordingly.

Given under _____ hand and seal at _____ in
the _____ of _____, this _____ day of
_____ in the year of our Lord

TABLE OF FEES referred to in the foregoing Act

In cases summarily disposed of under Section 239.

	£	s.	d.
Convening Justices in one or more cases on the same day	0	2	6
Attendance in each Case of Detention for the same offence:—			
Where one person detained	0	5	0
Two ditto	0	7	6
Three or more, ditto	0	10	6

In Cases of Detention and Remand.

Convening Justices in one or more cases on the same day	0	2	6
Taking information of officer to ground Warrant of detention against one or more persons for the same offence, and oath	0	2	6
Warrant for detention for one defendant only	0	1	6
„ for each additional defendant	0	0	6
Recognizance for defendant's appearance	0	2	6
Convening Justices to hear one or more cases of remand on the same day	0	5	0
Each summons to witnesses, when required	0	2	0

s. d.

Each information exhibited	0	2	6
Each witness examined, where examination does not exceed two folios, and oath	0	1	0
Each additional folio beyond the two first	0	0	8
Taking down prisoner's reply, if any, to charge	0	1	0
Recording conviction or acquittal	0	2	6
Warrant of commitment	0	3	0
Copy for Revenue Solicitor	0	1	0
Engrossing Conviction on parchment to file, and trans- mitting the same to Clerk of Peace	0	6	0

*In Cases where the Parties are proceeded against by
Summons.*

Convening Justices to receive information in one or more cases for the same day	0	2	6
Each information exhibited	0	2	6
Summons for defendant's appearance	0	2	0
Duplicate	0	1	0
Convening Justices in one or more cases for hearing on the same day	0	5	0
Each summons for witnesses	0	2	0
Each witness examined, where examination does not exceed two folios, and oath	0	1	0
Every additional folio beyond the two first	0	0	8
Taking down statement, if any, of party accused	0	1	0
Recording conviction or acquittal	0	2	6
Warrant of commitment	0	3	0
Copy for Revenue Solicitor	0	1	0
Engrossing Conviction on parchment to file, and trans- mitting same to Clerk of Peace	0	6	0

**GENERAL PROSECUTIONS AT THE INSTANCE OF THE
COMMISSIONERS OF CUSTOMS.**

*In Cases where Parties are brought before the Justices for
Offences determinable at Sessions or Assizes.*

	£	s.	d.
Convening Justices when required	0	2	6
Information and oath to ground warrant or summons .	0	2	6
Summons to compel party's appearance	0	2	0
Duplicate	0	1	0
Warrant for apprehension of offender	0	3	0
Taking depositions of witnesses, per folio	0	0	8
Copies ditto for Revenue Solicitor, when required, per folio	0	0	4
Warrant of commitment	0	2	6
Recognizance to prosecute and give evidence	0	2	6
Recognizance to give evidence, whatever the number of witnesses included therein	0	2	6
Each notice of recognizance to prosecute or give evi- dence	0	1	0

APPENDIX

"COMMON LAW PROCEDURE ACT, 1852."(1)

Incorporated Clauses as to Payment of Money into Court under Customs' Consolidation Act, s. 316.

70. It shall be lawful for the defendant in all actions, (except actions for assault and battery, false imprisonment, libel, slander, malicious arrest or prosecution, criminal conversation, or debauching of the plaintiff's daughter or servant,) and, by leave of the court or a judge, upon such terms as they or he may think fit, for one or more of several defendants to pay into court a sum of money by way of compensation or amends: Provided that nothing herein contained shall be taken to affect the provisions of a certain Act of Parliament passed in the session of Parliament holden in the sixth and seventh years of the reign of her present Majesty, intituled *An Act to amend the Law respecting defamatory Words and Libel*.

Payment into Court in certain actions.

71. When money is paid into court, such payment shall be pleaded in all cases, as near as may be, in the following form, *mutatis mutandis* :—

"The defendant by his attorney, [or in person, &c.]

"[if pleaded to part say, as to £ , parcel of the money

"claimed,] brings into court the sum of £ , and says that

"the said sum is enough to satisfy the claim of the plaintiff in respect

"of the matter herein pleaded to."

Payment into court, how pleaded.

72. No rule or judge's order to pay money into court shall be necessary, except in the case of one or more of several defendants, but the money shall be paid to the proper officer of each court, who shall give a receipt for the amount in the margin of the plea, and the said sum shall be paid out to the plaintiff or to his attorney, upon a written authority from the plaintiff, on demand.

No order to pay money into court.

73. The plaintiff, after the delivery of a plea of payment of money into court, shall be at liberty to reply to the same by accepting the sum so paid into court in full satisfaction and discharge of the cause of action in respect of which it has been paid in, and he shall be at liberty in that case to tax his costs of suit, and, in case of nonpayment thereof within forty-eight hours, to sign judgment for his costs of suit so taxed, or the plaintiff may reply that the sum paid into court is not enough to satisfy the claim of the plaintiff in respect of the matter to which the plea is pleaded; and, in the event of an issue thereon being found for the defendant, the defendant shall be entitled to judgment and his costs of suit.

Proceeding by plaintiff after payment into Court.

(1) 15 & 16 Vic. c. 76.

"LANDS CLAUSES CONSOLIDATION ACT, 1845." (ENGLAND) ⁽¹⁾

Incorporated Clauses as to Lands (England), under Customs Consolidation Act, secs. 336, 338, and 345.

Parties under disability enabled to sell and convey.

7. It shall be lawful for all parties being seised, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the promoters of the undertaking, and to enter into all necessary agreements for that purpose; and particularly it shall be lawful for all or any of the following parties so seised, possessed, or entitled, as aforesaid, so to sell, convey, or release; (that is to say,) all corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest; and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties, other than married women entitled to dower, or lessees for life, or for lives and years, or for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians on behalf of their wards, and as to such committees, on behalf of the lunatics, and idiots of whom they are the Committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this or the special Act if they had respectively been under no disability, and as to such trustees, executors, and administrators, on behalf of their cestuique trusts, whether infants, issue unborn, lunatics, femmes covert, or other persons, and that to the same extent as such cestuique trusts respectively could have exercised the same powers under the authority of this and the special Act if they had respectively been under no disability.

Provisions applicable to sheriff, to apply to coroner.

40. Throughout the enactments contained in this Act relating to the reference to a jury, where the term "sheriff" is used, the provisions applicable thereto shall be held to apply to every coroner or other person lawfully acting in his place; and in every case in which any such warrant shall have been directed to any other person than the sheriff, such sheriff shall, immediately on receiving notice of the delivery of the warrant, deliver over, on application for that purpose, to the person to whom the same shall have been directed, or to any person appointed by him to receive the same, the jurors book and special jurors list belonging to the county where the lands in question shall be situate.

Jury to be summoned.

41. Upon the receipt of such warrant the sheriff shall summon a jury of twenty-four indifferent persons, duly qualified to act as common jurymen in the superior courts, to meet at a convenient time and place to be appointed by him for that purpose, such time not being less than fourteen nor more than twenty-one days after the receipt of such warrant, and such place not

(1) 8th Vic. c. 18.

being more than eight miles distant from the lands in question, unless by consent of the parties interested, and he shall forthwith give notice to the promoters of the works of the time and place so appointed by him.

42. Out of the jurors appearing upon such summons a jury of twelve persons shall be drawn by the sheriff, in such manner as juries for trials of issues joined in the superior courts are by law required to be drawn, and if a sufficient number of jurymen do not appear in obedience to such summons the sheriff shall return other indifferent men, duly qualified as aforesaid, of the bystanders, or others that can speedily be procured, to make up the jury to the number aforesaid; and all parties concerned may have their lawful challenges against any of the jurymen, but no such party shall challenge the array.

43. The sheriff shall preside on the said inquiry, and the party claiming compensation shall be deemed the plaintiff, and shall have all such rights and privileges as the plaintiff is entitled to in the trial of actions at law; and if either party so request in writing, the sheriff shall summon before him any person considered necessary to be examined as a witness touching the matters in question, and on the like request the sheriff shall order the jury or any six or more of them, to view the place or matter in controversy, in like manner as views may be had in the trial of actions in the superior courts.

44. If the sheriff make default in any of the matters hereinbefore required to be done by him in relation to any such trial or inquiry, he shall forfeit fifty pounds for every such offence, and such penalty shall be recoverable by the promoters of the undertaking by action in any of the superior courts; and if any person summoned and returned upon any jury under this or the special Act, whether common or special, do not appear or if appearing, he refuse to make oath, or in any other manner unlawfully neglect his duty, he shall unless he show reasonable excuse to the satisfaction of the sheriff, forfeit a sum not exceeding ten pounds, and every such penalty payable by a sheriff or jurymen shall be applied in satisfaction of the costs of the inquiry, so far as the same will extend; and, in addition to the penalty hereby imposed, every such jurymen shall be subject to the same regulations, pains, and penalties as if such jury had been returned for the trial of an issue joined in any of the superior courts.

45. If any person duly summoned to give evidence upon any such inquiry and to whom a tender of his reasonable expenses shall have been made, fail to appear at the time and place specified in the summons without sufficient cause, or if any person whether summoned or not, who shall appear as a witness refuse to be examined on oath touching the subject matter in question, every person so offending shall forfeit to the party aggrieved a sum not exceeding ten pounds.

46. Not less than ten days notice of the time and place of the inquiry shall be given in writing by the promoters of the undertaking to the other inquiry party.

47. If the party claiming compensation shall not appear at the time appointed for the inquiry such inquiry shall not be further proceeded in, but the compensation to be paid shall be such as shall be ascertained by a surveyor appointed by two justices in manner hereinafter provided.

48. Before the jury proceed to inquire of and assess the compensation or damage in respect of which their verdict is to be given, they shall make oath that they will truly and faithfully inquire of and assess such compensation or damage, and the sheriff shall administer such oaths, as well as the oaths of all persons called upon to give evidence.

49. Where such inquiry shall relate to the value of lands to be purchased and also to compensation claimed for injury done or to be done to the lands held therewith, the jury shall deliver their verdict separately for the sum of money to be paid for the purchase of the lands required for the works, or

Sheriff to preside : witnesses to be summoned.

Penalty on sheriff and jury for default.

Penalty on witnesses making default.

Notice of

If the party make default, inquiry not to proceed.

Jury to be sworn.

Suma to be paid for purchase of lands and for damage, to be

assessed separately.	of any interest therein belonging to the party with whom the question of disputed compensation shall have arisen, or which, under the provisions herein contained, he is enabled to sell or convey, and for the sum of money to be paid by way of compensation for the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of this or the special Act, or any Act incorporated therewith.
Verdict and judgment to be recorded.	50. The sheriff before whom such inquiry shall be held shall give judgment for the purchase money or compensation assessed by such jury, and the verdict and judgment shall be signed by the sheriff, and being so signed shall be kept by the clerk of the peace among the records of the general or quarter sessions of the county in which the lands or any part thereof shall be situate in respect of which such purchase money or compensation shall have been awarded; and such verdicts and judgments shall be deemed records, and the same or true copies thereof shall be good evidence in all courts and elsewhere, and all persons may inspect the said verdicts and judgments, and may have copies thereof or extracts therefrom, on paying for each inspection thereof one shilling, and for every one hundred words copied or extracted therefrom sixpence, which copies or extracts the clerk of the peace is hereby required to make out, and to sign and certify the same to be true copies.
Costs of the inquiry how to be borne.	51. On every such inquiry before a jury, where the verdict of the jury shall be given for a greater sum than the sum previously offered by the promoters of the undertaking, all the costs of such inquiry shall be borne by the promoters of the undertaking; but if the verdict of the jury be given for the same or a less sum than the sum previously offered by the promoters of the undertaking, or if the owner of the lands shall have failed to appear at the time and place appointed for the inquiry, having received due notice thereof, one half of the costs of summoning, impanelling, and returning the jury, and of taking the inquiry and recording the verdict and judgment thereon, in case such verdict shall be taken, shall be defrayed by the owner of the lands, and the other half by the promoters of the undertaking, and each party shall bear his own costs, other than as aforesaid, incident to such inquiry.
Particulars of the costs.	52. The costs of any such inquiry shall, in case of difference, be settled by one of the masters of the court of Queen's Bench of <i>England or Ireland</i> , according as the lands are situate, on the application of either party, and such costs shall include all reasonable costs, charges and expenses incurred in summoning, impanelling, and returning the jury, taking the inquiry, the attendance of witnesses, the employment of counsel and attorneys, recording the verdict and judgment thereon, and otherwise incident to such inquiry.
Payment of costs.	53. If any such costs shall be payable by the promoters of the undertaking, and if within seven days after demand such costs be not paid to the party entitled to receive the same, they shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly; and if any such costs shall be payable by the owner of the lands or of any interest therein, the same may be deducted and retained by the promoters of the undertaking, out of any money awarded by the jury to such owner or determined by the valuation of a surveyor under the provision herein-after contained; and the payment or deposit of the remainder, if any, of such money shall be deemed payment and satisfaction of the whole thereof, or if such costs shall exceed the amount of the money so awarded or determined, the excess shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly.
Special jury to be summoned at the request of either party.	54. If either party desire any such question of disputed compensation as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming from the other party, be given

to the promoters of the undertaking before they have issued their warrant to the sheriff; and for that purpose, the promoters of the undertaking shall by their warrant to the sheriff require him to nominate a special jury for such trial; and thereupon the sheriff shall, as soon as conveniently may be after the receipt by him of such warrant, summon both the parties to appear before him, by themselves or their attorneys, at some convenient time and place appointed by him for the purpose of nominating a special jury (not being less than five nor more than eight days from the service of such summons;) and at the place and time so appointed the sheriff shall proceed to nominate and strike a special jury, in the manner in which such juries shall be required by the laws for the time being in force, to be nominated or struck by the proper officers of the superior courts, and the sheriff shall appoint a day, not later than the eighth day after striking of such jury, for the parties or their agents to appear before him to reduce the number of such jury, and thereof shall give four days' notice to the parties; and on the day so appointed the sheriff shall proceed to reduce the said special jury to the number of twenty, in the manner used and accustomed by the proper officers of the superior courts.

55. The special jury on such inquiry shall consist of twelve of the said twenty, who shall first appear on the names being called over, the parties having their lawful challenges against any of the said jurymen; and if a full jury do not appear, or if after such challenges a full jury do not remain, then upon the application of either party, the sheriff shall add to the list of such jury the names of any other disinterested persons qualified to act as special or common jurymen, who shall not have been previously struck off the aforesaid list, and who may then be attending the court, or can speedily be procured, so as to complete such jury, all parties having their lawful challenges against such persons; and the sheriff shall proceed to the trial and adjudication of the matters in question by such jury, and such trial shall be attended in all respects with the like incidents and consequences, and the like penalties shall be applicable, as hereinbefore provided in the case of a trial by common jury.

56. Any other inquiry than that for the trial of which such special jury may have been struck and reduced as aforesaid may be tried by such jury, provided the parties thereto respectively shall give their consent to such trial.

57. No jurymen shall, without his consent, be summoned or required to attend any such proceeding as aforesaid more than once in any year.

58. The purchase money or compensation to be paid for any lands to be purchased or taken by the promoters of the undertaking from any party who, by reason of absence from the kingdom, is prevented from treating, or who cannot after diligent inquiry be found, or who shall not appear at the time appointed for the inquiry before the jury as hereinbefore provided for, after due notice thereof, and the compensation to be paid for any permanent injury to such lands, shall be such as shall be determined by the valuation of such able practical surveyor as two justices shall nominate for that purpose as hereinafter mentioned.

59. Upon application by the promoters of the undertaking to two justices, and upon such proof as shall be satisfactory to them that any such party is, by reason of absence from the kingdom, preventing from treating, or cannot after diligent inquiry be found, or that any such party failed to appear on such inquiry before a jury as aforesaid, after due notice to him for that purpose, such justices shall, by writing under their hands, nominate an able practical surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

60. Before such surveyor shall enter upon the duty of making such valu-

Deficiency of
special jurymen.

Other inquiries
before same
special jury by
consent.

Jurymen not to
attend more
than once a
year.

Compensation
to absent parties
to be determined
by a surveyor
appointed by two
justices.

Two justices to
nominate a
surveyor.

Declaration to be made by the Surveyor.

tion as aforesaid he shall, in the presence of such justices, or one of them, make and subscribe the declaration following at the foot of such nomination; (that is to say,)

I *A. B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me. *A. B.*

‘Made and subscribed in the presence of

And if any surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

Valuation, &c., to be produced to the owner of the lands on demand.

61. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the promoters of the undertaking, and they shall at all times produce the said valuation and other documents, on demand, to the owner of the lands comprised in such valuation, and to all other parties interested therein.

Expenses to be borne by promoters.

62. All the expenses of and incident to every such valuation shall be borne by the promoters of the undertaking.

Purchase money and compensation, how to be estimated.

63. In estimating the purchase money or compensation to be paid by the promoters of the undertaking, in any of the cases aforesaid, regard shall be had by the justices, arbitrators or surveyors as the case may be, not only to the value of the land to be purchased or taken by the promoters of the undertaking, but also to the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such other lands by the exercise of the powers of this or the special Act, or any Act incorporated therewith.

Where compensation to absent party has been determined by a surveyor, the party may have the same submitted to arbitration.

64. When the compensation payable in respect of any lands, or any interest therein, shall have been ascertained by the valuation of a surveyor, and deposited in the bank under the provisions herein contained, by reason that the owner of or party entitled to convey such lands or such interest therein as aforesaid could not be found or was absent from the kingdom, if such owner or party shall be dissatisfied with such valuation it shall be lawful for him, before he shall have applied to the Court of Chancery for payment or investment of the monies so deposited under the provisions herein contained, by notice in writing to the promoters of the undertaking, to require the question of such compensation to be submitted to arbitration, and thereupon the same shall be so submitted accordingly, in the same manner as in other cases of disputed compensation hereinbefore authorized or required to be submitted to arbitration.

Question to be submitted to the arbitrators.

65. The question to be submitted to the arbitrators in the case last aforesaid shall be, whether the said sum so deposited as aforesaid by the promoters of the undertaking was a sufficient sum, or whether any and what further sum ought to be paid or deposited by them.

If further sum awarded, promoters to pay or deposit same within fourteen days.

66. If the arbitrators shall award that a further sum ought to be paid or deposited by the promoters of the undertaking, they shall pay or deposit, as the case may require, such further sum within fourteen days after the making of such award, or in default thereof the same may be enforced by attachment, or recovered with costs by action or suit in any of the superior courts.

Costs of the arbitration.

67. If the arbitrators shall determine that the sum so deposited was sufficient, the costs of and incident to such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators, but if the arbitrators shall determine that a further sum ought to be paid or deposited by the promoters of the undertaking, all the costs of and incident to the arbitration shall be borne by the promoters of the undertaking.

To be settled by arbitration or

68. If any party shall be entitled to any compensation in respect of any lands, or of any interest therein, which shall have been taken for or injuri-

ously affected by the execution of the works, and for which the promoters jury, at the of the undertaking shall not have made satisfaction under the provisions of option of the this or the special Act, or any Act incorporated therewith, and if the com- party claiming pensation claimed in such case shall exceed the sum of fifty pounds, such compensation. party may have the same settled either by arbitration or by the verdict of a jury, as he shall think fit; and if such party desire to have the same settled by arbitration, it shall be lawful for him to give notice in writing to the promoters of the undertaking of such his desire, stating in such notice the nature of the interest in such lands in respect of which he claims compensation, and the amount of the compensation so claimed therein; and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and shall enter into a written agreement for that purpose within twenty-one days after the receipt of any such notice from any party so entitled, the same shall be settled by arbitration in the manner herein provided; or if the party so entitled as aforesaid desire to have such question of compensation settled by jury, it shall be lawful for him to give notice in writing of such his desire to the promoters of the undertaking, stating such particulars as aforesaid, and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and enter into a written agreement for that purpose. they shall, within twenty-one days after the receipt of such notice, issue their warrant to the sheriff to summon a jury for settling the same in the manner herein provided, and in default thereof they shall be liable to pay to the party so entitled as aforesaid the amount of compensation so claimed, and the same may be recovered by him, with costs, by action in any of the superior courts.

81. Conveyances of lands to be purchased under the provisions of this Form of conveyances. or the special Act, or any Act incorporated therewith, may be according to the forms in the schedules (A.) and (B.) respectively to this Act annexed, or as near thereto as the circumstances of the case will admit, or by deed in any other form which the promoters of the undertaking may think fit; and all conveyances made according to the forms in the said schedules or as near thereto as the circumstances of the case will admit shall be effectual to vest the lands thereby conveyed in the promoters of the undertaking, and shall operate to merge all terms of years attendant by express declaration, or by construction of law, on the estate or interest so thereby conveyed, and to bar and to destroy all such estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts, and interests whatsoever, of and in the lands comprised in such conveyances which shall have been purchased or compensated for by the consideration therein mentioned; but although terms of years be thereby merged, they shall in equity afford the same protection as if they had been kept on foot, and assigned to a trustee for the promoters of the undertaking to attend the reversion and inheritance.

82. The costs of all such conveyances shall be borne by the promoters Costs of conveyances. of the undertaking, and such costs shall include all charges and expences incurred, on the part as well of the seller as of the purchaser, of all conveyances and assurances of any such lands, and of any outstanding terms or interests therein, and of deducing, evidencing, and verifying the title to such lands, terms, or interests, and of making out and furnishing such abstracts and attested copies as the promoters of the undertaking may require, and all other reasonable expences incident to the investigation, deduction, and verification of such title.

83. If the promoters of the undertaking and the party entitled to any Taxation of such costs shall not agree as to the amount thereof, such costs shall be costs of conveyances. taxed by one of the taxing masters of the Court of Chancery, or by a master in Chancery in *Ireland*, upon an order of the same court, to be obtained upon petition in a summary way by either of the parties; and the promoters of the undertaking shall pay what the said master shall certify to be

due in respect of such costs to the party entitled thereto, or in default thereof the same may be recovered in the same way as any other costs payable under an order of the said court, or the same may be recovered by distress in the manner herein-before provided in other cases of costs; and the expence of taxing such costs shall be borne by the promoters of the undertaking, unless upon such taxation one-sixth part of the amount of such costs shall be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said master, and deducted by him accordingly in his certificate of such taxation.

LANDS' CLAUSES CONSOLIDATION ACT, 1845. (SCOTLAND.)⁽¹⁾

Incorporated Clauses as to Lands (Scotland) under Customs Consolidation Act, 1853. Secs. 336, 339 and 345.

Parties under disability enabled to sell and convey.

7. It shall be lawful for all parties, being possessed of any lands, or any such right or interest therein, to contract for, sell, convey and dispose of such lands, or of such right therein, to the promoters of the undertaking, and to enter into all necessary agreements for these purposes, and particularly it shall be lawful for the parties following so to do; (that is to say,) all corporations, heirs of entail, life-renters, or persons holding any other partial or qualified estate or interest, married women seised in their own right or entitled to terce or dower, or any other right or interest, husbands, tutors, curators, and other guardians for infants, minors, lunatics or idiots, fatuous or furious persons, or for persons under any other disability or incapacity, judicial factors, trustees or feoffees in trust for charitable or other purposes, executors, and administrators; and the power so to contract for, sell, convey, and dispose of as aforesaid may lawfully be exercised by all such parties, not only on behalf of themselves and their respective heirs, executors, administrators and successors, but also for and on behalf of every person entitled in reversion or expectancy after them, and as to such married women as if they were sole, and as to such tutors, curators, guardians, judicial factors and trustees, on behalf of those for whom they respectively act, whether infants, minors, issue unborn, bankrupts, lunatics, idiots, fatuous and furious persons, married women, or other incapacitated persons, and that to the same extent as such infants, minors, bankrupts, lunatics, idiots, fatuous and furious persons, married women, and other incapacitated persons respectively could have exercised the same power under the authority of this and the special Act if they had respectively been under no disability.

Petition for summoning jury to be addressed to the sheriff.

38. In every case in which any such question of disputed compensation shall be required to be determined by the verdict of a jury the promoters of the undertaking shall present their petition to the sheriff to summon a jury for that purpose; and such petition shall, if the promoters be a company or corporation, be signed by the secretary or proper officer or person authorized by such company or corporation, and if they be not a company or corporation such petition shall be signed by the promoters, or any two of them if more than one.

Jury men to be summoned.

39. Upon the receipt of such petition as aforesaid the sheriff shall summon a jury of twenty-five indifferent persons, duly qualified to act as common jury men for the trial of civil causes in the Court of Session, to meet at a time and place to be named by the sheriff in the warrant for that purpose.

40. Not less than ten days notice of the time and place of the inquiry

⁽¹⁾ 8th Vic. c. 19.

shall be given in writing by the promoters of the undertaking to the other party, or to his known agent. Notice of inquiry.

41. Out of the jurors appearing upon such summons a jury of thirteen persons shall be drawn by ballot; and if a sufficient number of jurymen do not appear in obedience to such summons the sheriff shall return other indifferent men, duly qualified as aforesaid, of the bystanders, or others that can speedily be procured, to make up the jury to the number aforesaid; and all parties concerned may have their lawful challenges for cause against any of the jurymen; and each party may have three peremptory challenges. Jury to be impannelled.

42. The sheriff shall preside on the said inquiry; and the party claiming compensation shall be deemed the pursuer, and the proceedings at such trials shall be conducted in like manner as in criminal trials; and, if either party so request, the sheriff shall order the jury, or any seven or more of them, to view the place or matter in controversy. Sheriff to preside. Jury may view.

43. If any person summoned and returned upon any jury under this or the special Act, whether common or special, do not appear, or if appearing he refuse to make oath, or in any other manner unlawfully neglect his duty, he shall unless he show reasonable excuse to the satisfaction of the sheriff, forfeit a sum not exceeding ten pounds; and every such penalty shall be applied in satisfaction of the costs of the inquiry, so far as the same will extend; and, in addition to the penalty hereby imposed, every such jurymen shall be subject to the same regulations, pains, and penalties as if such jury had been returned for the trial of a civil cause in the Court of Session. Penalty on jury for default.

44. If either party so request in writing, the sheriff shall summon before him any person considered necessary to be examined as a witness touching the matters in question. Witnesses to be summoned.

45. If any person duly summoned to give evidence upon any such inquiry and to whom a tender of his reasonable expences shall have been made, fail to appear at the time and place specified in the summons, without sufficient cause, or if any person, whether summoned or not, who shall appear as a witness, refuse to be examined on oath touching the subject matter in question, every person so offending shall forfeit to the party aggrieved a sum not exceeding ten pounds, and in addition to the penalty hereby imposed, shall be subject to the same regulations, pains, and penalties as if such witness, having been duly summoned, had failed to appear, or having appeared had refused to be examined in any other cause. Penalty on witnesses making default.

46. If the party claiming compensation shall not appear at the time appointed for the inquiry, such inquiry shall not be further proceeded in, but the compensation to be paid shall be such as shall be ascertained by a valuator appointed by the sheriff in manner hereinafter provided. If the party make default the inquiry not to proceed.

47. Before the jury proceed to inquire of and assess the compensation or damage in respect of which their verdict is to be given, they shall make oath that they will truly and faithfully inquire of and assess such compensation or damage; and the sheriff shall administer such oaths, as well as the oaths of all persons called upon to give evidence. Jury to be sworn.

48. Where such inquiry shall relate to the value of lands to be purchased and also to compensation claimed for injury done or to be done to the lands held therewith, the jury shall deliver their verdict by a majority of their number separately for the sum of money to be paid for the purchase of the lands required for the works, or of any interest therein belonging to the party with whom the question of disputed compensation shall have arisen, or which under the provisions herein contained, such party is entitled to sell or convey, and for the sum of money to be paid by way of compensation for the damage, if any, to be sustained by the owner of the lands by reason of severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of this or the special Act, or any Act incorporated therewith: Provided always, that if the parties agree to dispense with such separation the verdict may be returned for one sum. Sums to be paid for purchase of lands and for damage to be assessed separately.

Verdict and judgment to be recorded.

49. The sheriff before whom such inquiry shall be held shall give judgment for the purchase money or compensation assessed by such jury; and the verdict and judgment shall be signed by the sheriff, and being so signed shall be kept by the clerk of the sheriff's court among the records of that court; and such verdicts and judgments shall be deemed records, and the same or official copies thereof shall be good evidence in all courts and elsewhere; and all persons may inspect the said verdicts and judgments, and may have copies thereof or extracts therefrom on paying for each inspection thereof one shilling, and for every one hundred words copied or extracted therefrom sixpence.

Expenses of the inquiry how to be borne.

50. On every such inquiry before a jury all the expences of such inquiry shall be borne by the promoters of the undertaking, unless the verdict of the jury be given for the same or a less sum than the sum previously offered by the promoters of the undertaking, or unless the owner of or party interested in the lands shall have failed to appear at the time and place appointed for the inquiry, having received due notice thereof, in either of which cases one half of the expenses of the promoters of the undertaking shall be defrayed by the owner of or party interested in the lands.

Particulars of the expenses.

51. The expences of any such inquiry shall, in case of difference, be settled by the sheriff on the application of either party; and such expences shall include all reasonable charges and expences incurred in summoning, impannelling, and returning the jury, taking the inquiry, the attendance of witnesses, the employment of counsel and agents, recording the verdict and judgment thereon, and otherwise incident to such inquiry, including the remuneration to the sheriff for his time and labour, and his reasonable travelling expences, which remuneration for time and labour, exclusive of travelling expences, shall be five guineas and no more for any inquiry as aforesaid, whether with or without a jury, unless such inquiry shall occupy more than one day or period of eight hours, in which case there shall be paid to the sheriff a sum of five guineas for each day or period of eight hours the inquiry may occupy, including the time necessarily occupied in travelling to and from the place of trial: Provided always, that the time occupied in travelling shall not in reference to any inquiry be computed at more than two days; and in all cases of inquiry as aforesaid before the sheriff, with or without a jury, the remuneration or expences of the sheriff shall be borne by the promoters of the undertaking.

Payment of expenses.

52. If any such costs shall be payable by the promoters of the undertaking, and if within seven days after demand such expences be not paid to the party entitled to receive the same, they shall be recoverable by poinding and sale, and on application to the sheriff he shall issue his warrant accordingly; and if any such expences shall be payable by the owner of the lands, or of any interest therein, the same may be deducted and retained by the promoters of the undertaking out of any money awarded by the jury to such owner or party interested, or determined by the valuation of a valuator under the provision hereinafter contained; and the payment or deposit of the remainder, if any, of such money shall be deemed payment and satisfaction of the whole thereof, or, if such expences shall exceed the amount of the money so awarded or determined, the excess shall be recoverable by poinding and sale and on application to the sheriff he shall issue his warrant accordingly.

Special jury to be summoned at the request of either party.

53. If either party desire any such question of disputed compensation as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming from the other party, be given to the promoters of the undertaking before they have presented their petition to the sheriff; and for that purpose the promoters of the undertaking shall, by their petition to the sheriff, require him to nominate a special jury for such trial; and thereupon the sheriff shall, as soon as conveniently may be after the receipt by him of such petition, summon both the parties to appear before him, by themselves or their agents, at some convenient time and place appointed by him, for the purpose of nominating a special jury (not

being less than five days from the service of such summons); and at the place and time so appointed the sheriff shall proceed to nominate a special jury in the manner in which such juries shall be required by the laws for the time being in force to be nominated by the sheriff in other cases, and the sheriff shall appoint a day for the parties or their agents to appear before him to reduce the number of such jury, and thereof shall give four days notice to the parties; and on the day so appointed the sheriff shall proceed to reduce the said special jury to the number of twenty, in the manner used and accustomed in reducing special juries in the Court of Session.

54. The special jury on such inquiry shall consist of thirteen of the said twenty who shall first appear on the names being called over, the parties having their lawful challenges against any of the said jurymen; and if a full jury do not appear, or if after such challenges a full jury do not remain, then, upon the application of either party, the sheriff shall add to the list of such jury the names of any other disinterested persons, qualified to act as special or common jurymen, who shall not have been previously struck off the aforesaid list, and who may then be attending the court, or can speedily be procured so as to complete such jury, all parties having their lawful challenges against such persons; and the sheriff shall proceed to the trial and adjudication of the matters in question by such jury; and such trial shall be attended in all respects with the like incidents and consequences, and the like penalties shall be applicable as hereinbefore provided in the case of a trial by common jury.

55. Any other inquiry than that for the trial of which such special jury may have been struck and reduced as aforesaid may be tried by such jury provided the parties thereto respectively shall give their consent to such trial.

56. The purchase money or compensation to be paid for any lands to be purchased or taken by the promoters of the undertaking from any party who, by reason of absence from the kingdom, is prevented from treating, or who cannot after diligent inquiry be found, or who shall not appear at the time appointed for the inquiry before the jury, after due notice thereof, and the compensation to be paid for any permanent injury to such lands, shall be such as shall be determined by the valuation of such valuator as the sheriff shall nominate for that purpose, as hereinafter mentioned.

57. Upon application by the promoters of the undertaking to the sheriff, and such proof as shall be satisfactory to him that any such party is by reason of absence from the kingdom, prevented from treating, or cannot after diligent inquiry be found, or that any such party failed to appear on such inquiry before a jury as aforesaid, after due notice to him for that purpose, such sheriff shall, by writing under his hand, nominate a valuator for determining such compensation as aforesaid, and such valuator shall determine the same accordingly, and shall annex to his valuation, a declaration in writing subscribed by him of the correctness thereof.

58. Before such valuator shall enter upon the duty of making such valuation as aforesaid, he shall, in the presence of such sheriff, make and subscribe the oath following at the foot of such nomination; (that is to say,)

"I, A. B., do solemnly swear, That I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me. So help me God.

"A. B.

"Sworn and subscribed in the presence of

And if any valuator shall corruptly make such oath, or having made such oath, shall wilfully act contrary thereto, he shall be guilty of and incur the pains of perjury.

59. The said nomination and declaration shall be annexed to the valuation to be made by such valuator, and shall be preserved together therewith, by

Deficiency of special jurymen.

Other inquiries before same special jury by consent.

Compensation to absent parties to be determined by a valuator appointed by the sheriff.

Sheriff to nominate a valuator.

Valuation &c. to be produced to

the owner of the lands, on demand.
Expence to be borne by the promoters.
Purchase money and compensation how to be estimated.

Compensation may be apportioned among different parties.

Where compensation to absent party has been determined by a valuator, the party may have the same submitted to arbitration.

Question to be submitted to the arbiters.

If further sum awarded promoters to pay or deposit same within fourteen days.

Expenses of the arbitration.

Application of compensation.

Purchase money payable to parties under disability, amounting to

the promoters of the undertaking, and they shall at all times produce the said valuation and other documents, on demand, to the owner of the lands comprised in such valuation, and to all other parties interested therein.

60. All the expences of and incident to every such valuation, shall be borne by the promoters of the undertaking.

61. In estimating the purchase money or compensation to be paid by the promoters of the undertaking in any of the cases aforesaid, regard shall be had not only to the value of the land to be purchased or taken by the promoters of the undertaking, but also to the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of this or the special Act, or any other Act incorporated therewith.

62. On estimating the purchase money or compensation to be paid by the promoters of the undertaking in any of the cases aforesaid, the sheriff, arbiters, valuator, or jury, as the case may be, shall apportion the said compensation among the parties who may be interested in the said lands as joint owners or lessees, or as holding some security, or burden, or claim, thereon, or interest therein, and who shall have been parties to the said trial or arbitration, or valuation: Provided always, that nothing herein contained shall prevent any person having a separate interest from having the same separately tried.

63. When the compensation payable in respect of any lands, or any interest therein, shall have been ascertained by the valuation of a valuator, and deposited in the bank under the provisions herein contained, by reason that the owner of, or party entitled to convey such lands, or such interest therein as aforesaid, could not be found, or was absent from the kingdom, and if such owner or party shall be dissatisfied with such valuation, it shall be lawful for him, before he shall have applied to the Court of Session for payment or investment of the monies so deposited under the provisions herein contained, by notice in writing to the promoters of the undertaking, to require the question of such compensation to be submitted to arbitration, and thereupon the same shall be so submitted to and settled by arbitration in the manner hereinbefore provided for settling disputes by arbitration.

64. The question to be submitted to the arbiters in the case last aforesaid shall be, whether the said sum so deposited as aforesaid by the promoters of the undertaking was a sufficient sum, or whether any and what further sum ought to be paid or deposited by them.

65. If the arbiters shall decide that a further sum ought to be paid or deposited by the promoters of the undertaking they shall pay or deposit, as the case may require, such further sum within fourteen days after the making of such decree, arbitral or award, or in default thereof the same may be enforced by diligence, or recovered, with expences, by action in any competent court.

66. If the arbiters shall determine that the sum so deposited was sufficient, the expences of and incident to such arbitration, to be determined by the arbiters, shall be in the discretion of the arbiters; but if the arbiters shall determine that a further sum ought to be paid or deposited by the promoters of the undertaking, all the expences of and incident to the arbitration shall be borne by the promoters of the undertaking.

And with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, be it enacted as follows:

67. The purchase money or compensation which shall be payable in respect of any lands, or any interest therein, purchased or taken by the promoters of the undertaking from any corporation, heir of entail, life renter, married woman seised in her own right or entitled to terce or dower, or any other right or interest, husband, tutors, curators, or other guardians for any in-

fant, minor, lunatic, or idiot, fatuous or furious person, or for any person under any other disability or incapacity, judicial factor, trustee, executor, or administrator, or person having a partial or qualified interest only in such lands, and not entitled to sell or convey the same, except under the provisions of this or the special Act, or the compensation to be paid for any permanent damage to any such lands, shall, if it amount to or exceed the sum of two hundred pounds, the same shall be paid into the Bank, to the intent that such monies shall be applied, under the authority of the Court of Session, to some one or more of the following purposes; (that is to say,)

In the purchase or redemption of the land tax, or the discharge of any debt or incumbrance affecting the land in respect of which such money shall have been paid, or affecting other lands settled therewith on the same heirs, or for the same trusts or purposes, or affecting succeeding heirs of entail in any such lands, whether imposed and constituted by the entail, or in virtue of powers given by the entail, or in virtue of powers conferred by any Act of parliament;

In the purchase of other lands to be conveyed, limited, and settled upon the same heirs, and the like trusts and purposes, and in the same manner, as the lands in respect of which such money shall have been paid stood settled: or

If such monies shall be paid in respect of any buildings taken under the authority of this or the special Act, or injured by the proximity of the works, or in removing or replacing such buildings, or substituting others in their stead, in such manner as the said court shall direct; or

In payment to any party becoming absolutely entitled to such money.

68. Such money may be so applied as aforesaid upon an order of the Court of Session, made on the petition of the party who would have been entitled to the rents and profits of the lands in respect of which such money shall have been deposited; and until the money can be so applied it shall be retained in the bank at interest, or shall be laid out and invested in the public funds or in heritable securities, and the interest, dividends, and annual proceeds thereof shall from time to time, under the like order, be paid to the party who would for the time being have been entitled to the rents and profits of the lands.

And with respect to the conveyances of lands, be it enacted as follows:—

Conveyances.

80. Feus and conveyances of lands so to be purchased as aforesaid may be according to the form in the schedules (A.) and (B.) respectively to this Act annexed, or as near thereto as the circumstances of the case will admit; which feus and conveyances, being duly executed, and being registered in the particular register of sasines kept for the county, burgh, or district in which the lands are locally situated, or in the general register of sasines for Scotland kept at *Edinburgh*, within sixty days from the last date thereof, which the respective keepers of the said registers are hereby authorised and required to do, shall give and constitute a good and undoubted right and complete and valid feudal title in all time coming to the promoters of the undertaking, and their successors and assigns, to the premises therein described, and law or custom to the contrary notwithstanding: Provided always, that it shall not be necessary for the promoters of the undertaking to record in any register of sasines any feus or conveyances in their favour which shall contain a procuratory of resignation or precept of sasine, or which may be completed by infestment; and the title of the company under such last-mentioned feus or conveyances shall be regulated by the ordinary law of *Scotland*, until the said feus or conveyances, or the instruments of sasine thereon, shall have been recorded in a register of sasines.

Expenses of conveyances.

81. The expenses of all conveyances of lands shall be borne by the promoters of the undertaking; and such expenses shall include all charges and expences, incurred on the part as well of the seller as the purchaser, of all conveyances of any such lands, and of any interests therein, and of establishing the title to such lands, and all other reasonable expenses incident to the investigation of such title.

Taxation of expenses of conveyances.

82. If the promoters of the undertaking and the party entitled to any such expenses shall not agree as to the amount thereof, such amount shall be ascertained and discerned for by the Lord Ordinary, on a summary petition presented to him by the party entitled to recover the same: and the promoters of the undertaking shall pay to the party entitled thereto what the said Lord Ordinary shall decree for or in respect of such expenses, or in default thereof the same may be recovered in the same way as any other expenses payable under an order or decree of the Court, or the same may be recovered by pointing and sale in the manner herein-before provided in other cases of expenses; and the expense of taxing such expenses shall be borne by the promoters of the undertaking, unless upon such taxation one sixth part of the amount of such expenses shall be disallowed, in which case the expenses of such taxation, and of or incident to the application to the Lord Ordinary, shall be borne by the party whose expenses shall be so taxed, and the amount thereof shall be ascertained by the said Lord Ordinary, and deducted by him accordingly in his judgment or decretniture.

CLAUSES OF REPEALED ACTS SAVED BY THE CUSTOMS CONSOLIDATION ACT, 1853, SECTION 358.

8 & 9 *Vict. cap. 85.*

Board of Customs, Appointment of.

2. And be it enacted, that it shall be lawful for Her Majesty from time to time to appoint, under the Great Seal of the United Kingdom, any number of persons not exceeding thirteen to be Commissioners of Her Majesty's Customs for the collection and for the management of the Customs in and throughout the whole of the United Kingdom and of any of Her Majesty's possessions abroad; and that each of such Commissioners, when so appointed, shall have and hold his office during Her Majesty's pleasure.

Commissioners subject to the control of the Treasury.

3. And be it enacted, that the said Commissioners so appointed or to be appointed by Her Majesty shall in all matters and things relating to the execution of their duties, be subject to the authority, directions and control of the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, and shall obey such orders and instructions as shall from time to time be issued to them by the said Commissioners of Her Majesty's Treasury under the Hands of three or more of them.

8 & 9 *Vict. cap. 86.*

Vessels with stone from Guernsey, &c. not to be piloted.

45. And be it enacted, that no vessel arriving on the coast of England from Guernsey, Jersey, Alderney, Sark or Man, wholly laden with stone, the production thereof, shall be liable to be conducted or piloted by pilots appointed and licensed by the corporation of the Trinity House of Deptford Strond, any law custom, or usage to the contrary notwithstanding.

Persons having such goods in possession, without notice, &c., liable to a penalty of £100.

53. And ⁽¹⁾ be it enacted, that if any person shall have possession of any foreign goods, derelict, jetsam, flotsam, or wreck, either on land or within any port in the United Kingdom, and shall not give notice thereof to the proper officer of the Customs within twenty-four hours after such possession or shall not, on demand, pay the duties due thereon, or deliver the same into the custody of the proper officer of the Customs, such person shall for-

⁽¹⁾ This section, 53, merely saved from repeal as to Scotland. *Vide* Customs Consolidation Act, 1853. Schedule A.

feit the sum of one hundred pounds; and if any person shall remove, or alter in quantity or quality, any such goods, or shall open or alter any package containing any such goods, or shall cause any such Act to be done, or assist therein, before such goods shall be deposited in a warehouse in the custody of an officer of the Customs, every such person shall forfeit the sum of one hundred pounds; and in default of the payment of the duties on such goods within eighteen months from the time when the same were so deposited, the same may be sold in like manner and for the like purposes as goods imported may in such default be sold: Provided always, that any lord of the manor, having by law just claim to such goods, or if there be no such lord of the manor, then the person having possession of the same, shall be at liberty to retain the same in his own custody, giving bond, with two sufficient sureties, to be approved by the proper officer of the Customs, in treble the value of such goods, for the payment of the duties thereon at the end of one year and one day, or to deliver such goods to the proper officer of the Customs in the same state and condition as the same were in at the time of taking possession thereof.

Lord of manor or salvor may retain such goods on giving bond for payment of duties.

139. And whereas by an Act passed in the fourth and fifth years of the reign of his late Majesty King William the Fourth, intituled "An Act for reducing the tonnage rates payable in the port of London," certain rates are imposed upon ships or other vessels entering inwards and clearing outwards in the port of London, and it is expedient to amend the same in respect of ships or other vessels reporting their cargoes for exportation, and ultimately leaving the port without breaking bulk: be it therefore enacted, that no tonnage rate shall be payable under the said Act on ships or other vessels entering inwards or clearing outwards in the said port in cases where the cargoes are reported for exportation, and ultimately the ships or other vessels leave the port without breaking bulk, or taking in merchandise for the purpose of exportation.

Ships, when not liable to tonnage rate, under 4 & 5 Wm. 4, c. 32.

140. And be enacted, that it shall be lawful for the officers of the Customs at any port under British dominion where there shall be a collector and controller of the Customs to refuse to admit any person to do any Act at such port as master of any British ship, unless his name shall be inserted in or have been endorsed upon the certificate of registry of such ship as being the master thereof, or until his name shall have been so endorsed by such collector and controller.

Officers may refuse master of British ship unless endorsed on register.

8 & 9 Vict. cap. 87.

10. And whereas his late Majesty King George the Third, by his royal proclamation bearing date the first day of January one thousand eight hundred and one, was pleased, with the advice of his privy council, to order and appoint what ensign or colours should be borne at sea by merchants ships or vessels belonging to any of his Majesty's subjects of the United Kingdom of Great Britain and Ireland, and of the dominions thereunto belonging, thereby charging and commanding all his Majesty's subjects whatsoever that they should not presume to wear in any of their ships or vessels his Majesty's jack commonly called the union jack, nor any pendants nor any such colours as are usually worn by his Majesty's ships, without particular warrant for their so doing from his Majesty or his high admiral of Great Britain, or the Commissioners for executing the office of lord high admiral for the time being, and also commanding his Majesty's subjects that without such warrant as aforesaid they should not presume to wear on board their ships or vessels any flags, jacks, pendants or colours made in imitation of or resembling those of his Majesty, or any kind of pendant whatsoever, or any other ensign than the ensign described in the margin of the said proclamation: Be it therefore enacted and declared, that from and after the passing of this Act it shall not be lawful for any of Her Majesty's subjects whomsoever to hoist, carry, or wear in or on board any ship, vessel, or fishing boat, or any other vessel or boat whatever, whether merchant or

None of Her Majesty's subjects to hoist in their vessels the union jack or any pendants &c., usually worn in Her Majesty's ships, and prohibited to be worn by proclamation of 1st January, 1801, under a penalty not exceeding £500.

otherwise, belonging to any of Her Majesty's subjects, Her Majesty's jack, commonly called the union jack, or any pendant or any such colours as are usually worn by Her Majesty's ships, or any flag, jack, pendant, or colours whatever made in imitation of or resembling those of Her Majesty, or any kind of pendant whatsoever, or any ensign or colours whatever, other than those prescribed by the said proclamation; and that if any person or persons shall nevertheless presume to hoist, carry, or wear in or on board any ship or vessel, fishing boat, or other vessel or boat whatever, belonging to any of Her Majesty's subjects, whether the same be merchant or otherwise, Her Majesty's jack commonly called the union jack, or any pendant or colours such as are commonly worn by Her Majesty's ships, or any jack, flag, pendant or colours whatever made in imitation of or resembling those of Her Majesty, or any kind of pendant whatever, without such warrant as aforesaid, or any other ensign or colours than the ensign or colours prescribed by the said proclamation to be worn, then and in every such case the master or other person having charge of such ship, vessel, or boat, or the owner or owners thereof being on board the same, and every other person so offending, shall for every such offence forfeit and pay a sum not exceeding five hundred pounds, to be recovered, with costs of suit, either in the high court of admiralty of England, or in any vice-admiralty court in Her Majesty's colonies, or in any of Her Majesty's courts of Queen's Bench or Exchequer at Westminster or Dublin, at the suit of Her Majesty's attorney-general, or in the Courts of Session or Exchequer in Scotland respectively; and that it shall be lawful for any officer of Her Majesty's navy or marines belonging to any of Her Majesty's ships or any officer of the Customs or Excise to enter on board any ship, vessel or boat so hoisting wearing or carrying any jack, flag, ensign, pendant, or colours prohibited by the said proclamation and by this Act to be hoisted, worn, or carried, and to seize and take away the same, and the same shall thereupon become forfeited.

Certain articles herein mentioned not to be landed coastwise until the dues of the City of London are paid.

124. And for the purpose of enabling the mayor commonalty, and citizens of the city of London, and their successors, to ascertain and collect the amount of the dues payable to them upon the several articles herein after mentioned, brought coastwise into the port of London, be it enacted, that if all or any of the goods of the description hereinafter mentioned, (that is to say,) firkins of butter, tons of cheese, fish, eggs, salt, fruit, roots (eatable), and onions, brought coastwise into the port of the said city, and which are liable to the said dues, shall be landed or unshipped at or in the said port before a proper certificate of the payment of the said duties shall have been obtained, such goods respectively shall be forfeited, and may be seized by any officer of her Majesty's Customs empowered to seize any goods landed without due entry thereof; and such forfeiture may be sued for, prosecuted, and recovered by action of debt, bill, plaint, or information in any of her Majesty's courts of record at Westminster, in the name of the chamberlain of the said city, on behalf of the said mayor, commonalty and citizens.

8 & 9 Vict. cap. 91.

Goods landed in docks liable to claims for freight as before landing.

51. And be it enacted, that all goods or merchandize which shall be landed in docks, and lodged in the custody of the proprietors of the said docks, under the provisions of this act, not being goods seized as forfeited to her Majesty, shall, when so landed, continue and be subject or liable to such and the same claim for freight in favour of the master, owner or owners, of the respective ships or vessels, or of any other person or persons interested in the freight of the same, from or out of which such goods or merchandize shall be so landed, as such goods, wares, or merchandize respectively were subject and liable to whilst the same were on board such ships or vessels, and before the landing thereof; and the directors and proprietors of any such docks at or in which any such goods or merchandize may be landed and lodged as aforesaid, or their servants or agents, or any of them,

shall and may, and they are hereby authorised, empowered and required, upon due notice in that behalf given to them by such master or masters, owner or owners, or other persons as aforesaid, to detain and keep such goods and merchandise, not being seized as forfeited to her Majesty, in the warehouses belonging to the said docks as aforesaid, until the respective freights to which the same shall be subject and liable as aforesaid shall be duly paid or satisfied, together with the rates and charges to which the same shall have been subject and liable, or until a deposit shall have been made by the owner or owners, or consignee or consignees, of such goods or merchandise, equal in amount to the claim or demands made by the master, owner or owners, of the respective ships or vessels, or other persons as aforesaid, for or on account of freight upon such goods or merchandise, which deposit the said directors or proprietors of such docks, or their agents respectively, are hereby authorised and directed to receive and hold in trust, until the claim or demand for freight upon such goods shall have been satisfied, upon proof of which, and demand made by the person or persons, their executors, administrators or assigns, by whom the said deposit shall have been made, and the rates and charges due upon the said goods being first paid, the said deposit shall be returned to him or them by the said directors or proprietors, or their agents, on their behalf, with whom the said deposit shall have been made as aforesaid.

12 & 13 Vict. c. 90.

41. And whereas by an act passed in the thirty-ninth year of the reign of his Majesty King George the Third, intituled, "An Act for rendering more commodious and for better regulating the port of London," and also by several subsequent Acts, certain rates or duties of tonnage were imposed on ships or vessels frequenting the port of London, to be applied in manner therein directed : And whereas by the said Act, and by several subsequent Acts, certain sums of money were advanced out of the Consolidated fund upon the credit of the said rates or duties for the purposes of the said Act ; And whereas the said sums of money so advanced out of the Consolidated Fund under the said Acts have been fully paid and replaced : Be it therefore enacted, that from and after the passing of this Act, so much of an Act passed in the fourth and fifth years of the reign of his Majesty King William the Fourth as directs that the duties imposed by that Act shall be under the management of the Commissioners of his Majesty's Customs, and shall be received and recovered in the same manner as any duties of Customs are or can be received or recovered, shall be repealed.

Collection of certain dues under 39 Geo. 3. c. 69, &c., by the Customs repealed.

42. And be it enacted, that the said duties shall, from and after the passing of this Act, be managed, paid, received and recovered by the mayor, commonalty and citizens of the City of London in such and the like manner as any other duties, rates or dues may be managed, paid, received and recovered by the said mayor, commonalty and citizens of the City of London : and the said duties (the cost and expense of collecting and controlling the same being first paid) shall be applied by the mayor, commonalty and citizens of the City of London in the manner and for the purposes directed by the said Act, passed in the fourth and fifth years of the reign of King William the Fourth.

Tonnage duties to be under management of corporation of London.

43. And whereas, by certain local Acts for establishing or regulating docks, officers appointed under such Acts respectively are empowered to cause goods brought into such docks to be landed and warehoused as therein mentioned : Be it enacted, that no goods which shall be brought into any such docks shall be landed and warehoused without due entry thereof.

Goods brought into docks not to be landed or warehoused without due entry.

13 & 14 Vict. c. 95.

14. And whereas by an Act passed in the session of Parliament holden in the ninth and tenth years of the reign of her present Majesty, intituled, "An Act for consolidating and amending the Laws relating to Wreck and

Acts recited in 9 & 10 Vic. c. 99, sec. 1, to remain

in force as
regards
Scotland.

"Salvage," certain Acts, and parts of Acts therein mentioned, are thereby repealed: And whereas by the said Act it is enacted, that the same shall extend to all parts of the United Kingdom except Scotland: And whereas doubts are entertained whether such Acts, and parts of Acts, are still in force as regards Scotland: Be it therefore enacted and declared, that the said Act, and parts of Acts, mentioned and recited in the said Act shall, so far as the same are applicable to Scotland, be deemed to be and continue in full force and effect.

Sections 7, 8, 9, 17, 18, 19 and 20 of 12 & 13 Vic. c. 29, having exclusive reference to the Registry Laws, the subject of a consolidation now in progress, and in no way affecting the provisions of the Customs Consolidation Act, it is not necessary to give them here, though saved clauses.

CUSTOMS TARIFF ACT.

ANNO DECIMO SEXTO ET DECIMO SEPTIMO.

VICTORIÆ REGINÆ.

CAP. CVI.

An Act for Consolidating Customs Duties Acts.

[20th August, 1853.]

BE it enacted by the Queen's most Excellent Majesty, by and Preamble.
with the advice and consent of the Lords Spiritual and Temporal,
and Commons, in this present Parliament assembled, and by the
authority of the same, as follows :

1. In lieu and instead of all other duties and drawbacks of Customs there shall be raised, levied, collected, and paid unto Her Majesty, her heirs and successors, upon goods imported into or exported from any part of the United Kingdom, the several duties of Customs, and there shall be allowed the several drawbacks, as the same are respectively inserted, described, and set forth in Table (A.) to this Act annexed. Instead of all other duties and drawbacks of Customs there shall be paid and allowed the duties and drawbacks in tables annexed.

2. All manufactures of Gibraltar, Malta, and Heligoland made of materials of foreign produce liable to duty upon importation into the United Kingdom, upon which no such duty has been paid, or upon which drawback of such duty has been allowed in the United Kingdom, shall, for the purposes of duty, be deemed and taken to be the produce of and imported from a foreign country. Manufactures Gibraltar, &c. from foreign materials deemed foreign.

Commissioners
of Customs to
provide samples
of white-clayed
and brown-
clayed sugar.

3. For facilitating the due assessment of duties on white-clayed sugar, or sugar rendered by any process equal to white-clayed, with reference to colour, grain, and saccharine matter, and on brown-clayed sugar or sugar rendered by any process equal in quality to brown-clayed sugar, the Commissioners of Customs shall provide and renew from time to time samples of white-clayed and brown-clayed sugar respectively, which shall be deemed to be standard samples, for the purpose of comparing therewith sugars entered for home consumption; and no sugar shall, as regards the payment of duty, be deemed to be white-clayed sugar, or sugar rendered by any process equal to white-clayed sugar, unless equal to the standard sample of white-clayed sugar, or be deemed to be brown-clayed sugar, or sugar rendered by any process equal to brown-clayed sugar, unless equal to the standard sample of brown-clayed sugar.

Duties in table
to be levied on
goods imported
into Isle of Man.

4. In lieu of all duties of Customs now payable by law upon the importation of goods into the Isle of Man, there shall be raised, levied, collected, and paid unto Her Majesty, her heirs and successors, the several duties of Customs as the same are respectively set forth in figures in Table (B) to this Act annexed.

Power to the
Treasury to re-
mit and reim-
pose the duties
levied on un-
enumerated
Articles.

5. The Commissioners of the Treasury may from time to time, by any order or orders under their hands, declare that all or any articles legally importable into the Isle of Man, and not enumerated in the said table, and upon which the said duty of fifteen pounds for every hundred pounds value is hereby imposed,⁽¹⁾ shall and may, from and after any day or days named in such order or orders, be imported from the places and in the manner therein mentioned into the Isle of Man duty free during such time or times as shall be therein named, or until such order or orders respectively, or any of them, shall be rescinded, and such articles shall be imported duty free accordingly so long as any such order or orders, or any of them, shall continue unrescinded; and the said Commissioners may at any time, by any order under their hands, revoke the whole or any part of any previous order or orders, or

(1) By Treasury Order of 27th August, and G. O. 1861, these goods are to be admitted into the Isle of Man duty free so long as the order shall remain unrescinded.

any of them, for such time and in such manner as they may see fit; and all orders of the Commissioners of the Treasury made in pursuance of this enactment shall be duly published in the London and Dublin Gazettes twice at least within fourteen days from the date of such orders respectively, and a copy of every such order shall be laid before both Houses of Parliament within six weeks after the date of such order if Parliament be then sitting, and if not, then within six weeks after the commencement of the then next session of Parliament.

Orders to be published in the Gazette and laid before parliament.

6. And all the goods described as free in the said Table (A.) shall be exempt from duty on the importation thereof into the United Kingdom, and those described as free in the said Table (B.) shall be exempt from duty on the importation thereof into the Isle of Man.

Free goods.

7. The metage dues now payable upon fruit imported into the port of London shall not be increased in consequence of the duties upon such fruit being levied by the bushel.

Metage dues on fruit.

8. This Act shall commence from the time of the passing thereof; and in citing it in other Acts of Parliament and in legal instruments it shall be sufficient to use the expression "The Customs Tariff Act, 1853."

Commencement of Act.

NOTE.—To assist the importer of free goods formerly chargeable with duty in preparing the accounts required under Sec. 60 & 142, the "Customs Consolidation Act, 1853," the terms under which they should be described with reference to weight, measure, value, &c., are denoted in Table A. by the words printed in italics. Where fractions are required the word

Tons	is to include	.	.	.	Tons, cwt., qrs., lbs.
Cwt.	"	.	.	.	Cwts., qrs., lbs.
Quarter	"	.	.	.	Quarters, bushels.
Tuns	"	.	.	.	Tuns, hhds., gals.
Loads (timber)	"	.	.	.	Load, feet.

And those good of which the value is, by section 142 of the same Act, required to be given on their exportation, are marked with an asterisk thus—(* *value*).

TABLE (A.)

DUTIES APPLICABLE TO THE UNITED KINGDOM.

		£	s.	d.
1. Agates or cornelians, set	for every 100 <i>l.</i> value	10	0	0
not set, cut, or manufactured	<i>*value</i>			free
not cut or manufactured	<i>*value</i>			free
2. Albumen	. . . . . <i>cwt.</i>			free
3. Ale.	See Beer.			
4. Alganobilla seed	. . . . . <i>cwt.</i>			free
5. Alkali, not being Barilla	. . . . . <i>cwt.</i>			free
6. Alkanet root	. . . . . <i>cwt.</i>			free
7. Almonds, not Jordan, nor bitter	. the <i>cwt.</i>	0	10	0
Jordan	. . . . . the <i>cwt.</i>	0	10	0
bitter	. . . . . <i>cwt.</i>			free
paste of	. . . . . the <i>lb.</i>	0	0	2
8. Aloes	. . . . . <i>lb.</i>			free
9. Alum, roch	. . . . . <i>cwt.</i>			free
not roch	. . . . . <i>cwt.</i>			free
10. Amber, rough	. . . . . <i>cwt.</i>			free
manufactures of, not enumerated (except beads)	. . . . . <i>*value</i>			free
11. Ambergris	. . . . . <i>ounce</i>			free
12. Amboyana wood	. . . . . <i>ton</i>			free
13. Anchovies.	See Fish.			
14. Angelica	. . . . . <i>cwt.</i>			free
15. Animals (living) ₂ (<i>see c. 107, sec. 44</i>) viz. —				
asses	. . . . . <i>number</i>			free
goats	. . . . . <i>number</i>			free

£ s. d.

Animals, living, *continued*, viz:—

kids	number	free
oxen and bulls	number	free
cows	number	free
calves	number	free
horses, mares, geldings, colts, foals,	number	free
mules	number	free
sheep	number	free
lambs	number	free
swine and hogs	number	free
pigs (sucking)	number	free
16. Annatto roll and flag	cwt.	free
17. Antimony, viz.:—		
ore of	ton	free
crude	cwt.	free
regulus	cwt.	free
18. Apples, raw	the bushel	0 0 3
of and from British Possessions		
	the bushel	0 0 2
dried	the bushel	0 1 0
19. Aquafortis	cwt.	free
20. Argol	cwt.	free
21. Aristolochia	cwt.	free
22. Arrowroot	the cwt.	0 0 4½
23. Arsenic	cwt.	free
24. Ashes, viz.:—		
pearl and pot	cwt.	free
soap	cwt.	free
weed	cwt.	free
wood	cwt.	free
not enumerated	*value	free
25. Asphaltum or Bitumen Judaicum	ton	free
26. Bacon	cwt.	free
27. Balsams, viz.:—		
Canada	lb.	free
capivi	cwt.	free

£ s d.

Balsams, *continued*, viz.:—

Peru	lb.	free
Riga	lb.	free
Tolu	lb.	free
balm of Gilead, and unenumerated balsam	lb.	free
28. Bandstring twist	*value	free
29. Barilla	ton	free
30. Bark for tanner's or dyer's use	cwt.	free
cascarilla	cwt.	free
Peruvian	cwt.	free
of other sorts	cwt.	free
extract of. See Extract.		
31. Barley, pearled	the cwt.	0 0 4½
32. Barwood	ton	free
33. Barytes, sulphate of, ground	ton	free
34. Basket rods, peeled	<i>Bundles not exceeding three feet in circumference at the band</i>	free
unpeeled	<i>Bundles not exceeding three feet in circumference at the band</i>	free
35. Baskets corresponding with the description com- monly called Berlin	the cubic foot	0 0 7
all others	the cubic foot	0 0 2
36. Bast ropes, twines and strands	*value	free
37. Beads, viz.:—		
Arango	the lb.	0 0 2
and bugles of glass	lb.	free
coral	the lb.	0 1 6
crystal	the lb.	0 0 2
jet	the lb.	0 0 2
not otherwise enumerated or described		
the lb.		0 0 2
38. Beans, kidney and French. See seeds.		
39. Beef, salted	cwt.	free
fresh, or slightly salted	cwt.	free
40. Beef wood	ton	free

		£	s.	d.
41.	Beer or ale the barrel	1	0	0
	mum the barrel	1	0	0
	spruce the barrel	1	0	0
	of other sorts the barrel	1	0	0
42.	Berries, viz. :—			
	bay cwt.			free
	juniper cwt.			free
	yellow cwt.			free
	Myrobolane ton			free
	unenumerated, commonly made use of in chemical processes ton			free
	unenumerated, not commonly made use of in chemical processes cwt.			free
43.	Birds, viz., singing birds number			free
44.	Biscuit and bread the cwt.	0	0	4½
45.	Bitumen Judaicum. See Asphaltum.			
46.	Blacking. *value			free
47.	Black wood ton			free
48.	Bladders number			free
49.	Bones (except whale fins), whether burnt or not,			
50.	Books, viz. :— (See cap. 107, secs. 44, 46 and 100.)			
	or as animal charcoal ton			free
	being of editions printed prior to the year 1801, bound or unbound cwt.			free
	being of editions printed in or since the year 1801, bound or unbound the cwt.	1	10	0
	admitted under treaties of interna- tional copyright, or if of and from any British Possession the cwt.	0	15	0
51.	Boracic acid cwt.			free
52.	Borax, refined cwt.			free
53.	Borax, or tincal, unrefined cwt.			free
54.	Bottles, of earth and stone number			free
55.	Boxes of all sorts, excepting those made wholly or partly of glass, on which the proper glass duty will be levied . . . for every 100l. value	10	0	0

		£	s.	d.
56.	Box wood	ton	free	
57.	Bran	cwt.	free	
58.	Brass, manufactures of, not otherwise enumerated	the cwt.	0	10 0
	powder of	*value	free	
	old, fit only to be re-manufactured	ton	free	
	wire	*value	free	
59.	Brazil wood	ton	free	
60.	Braziletto wood	ton	free	
61.	Bricks or clinkers, Dutch	number	free	
	other sorts	number	free	
62.	Brimstone, unrefined	cwt.	free	
	refined, in rolls	cwt.	free	
	in flour	cwt.	free	
63.	Bristles, rough and in the tufts, and not in any way sorted	lb.	free	
	in any way sorted or arranged in colours, and not entirely rough and in the tufts	lb.	free	
64.	Brocade, of gold or silver	the lb.	0	5 0
65.	Bronze, all works of art	cwt.	free	
	manufactures of, or of metal bronzed or lacquered	the cwt.	0	10 0
	powder	*value	free	
66.	Brushes, paint	*value	free	
67.	Bullion and foreign coin, of gold or silver		free	
	(See cap. 107, secs. 44, 49, 150.)			
68.	Bullrushes	ton	free	
69.	Butter	the cwt.	0	5 0
	of and from a British Possession	the cwt.	0	2 6
70.	Buttons of metal	value	free	
	other sorts	value	free	
71.	Cables(not being iron cables), tarred or untarred, old and new	cwt.	free	
72.	Cameos, not set	*value	free	
73.	Camomile flowers	lb.	free	
74.	Camphor, unrefined	cwt.	free	
	refined	cwt.	free	

		£	s.	d.
75. Camwood	ton	free		
76. Candles, viz., spermaceti	the cwt.	0	2	4
stearine, till the 5th April, 1858, unless the				
duty upon tallow shall be repealed at an				
earlier time, in which case, or after the				
5th April 1858, this duty shall be re-				
duced to the same rate as tallow can-				
dles	the cwt.	0	3	6
tallow	the cwt.	0	2	4
wax	the cwt.	0	2	4
77. Candlewick	cwt.	free		
78. Canella alba	lb.	free		
79. Canes, viz., bamboo	number	free		
rattans, not ground	number	free		
80. reed canes	number	free		
walking canes or sticks, mounted, painted,				
or otherwise ornamented	the 100	0	6	0
umbrella and parasol sticks	the 100	0	3	0
or sticks, unenumerated	number	free		
81. Cantharides	lb.	free		
82. Caoutchouc	cwt.	free		
manufactures of	the lb.	0	0	4
83. Capers, including the pickle	the lb.	0	0	1½
84. Cardamoms	lb.	free		
85. Cards, viz., playing cards	the dozen packs	0	15	0
(See cap. 107, secs. 114 to 116.)				
86. Carmine	ounce	free		
87. Carriages of all sorts	*value	free		
88. Casks, empty	*value	free		
89. Cassava powder	the cwt.	0	0	4½
90. Cassia, viz., buds	lb.	free		
fistula	cwt.	free		
lignea	the lb.	0	0	1
91. Castor	cwt.	free		
92. Casts of busts, statues, or figures	cwt.	free		
93. Catlings	*value	free		
94. Caviare	cwt.	free		
95. Cedar wood	ton	free		

		£	s.	d.
96. Chalk, viz., unmanufactured	*value			free
prepared or manufactured, and not other-				
wise enumerated	*value			free
97. Cheese	the cwt.	0	2	6
of and from British Possessions	the cwt.	0	1	6
The duty on cheese to be charged on landing weight.				
98. Cherries raw	the bushel	0	0	2
dried, until 5th July, 1854 inclusive, the lb.		0	0	2
from and after 5th July, 1854	the lb.	0	0	1½
99. Cherry wood	ton			free
100. Chicory, or any other vegetable matter applica-				
ble to the uses of chicory or coffee, viz.,				
roasted or ground	the lb.	0	0	4
raw or kiln-dried, until 10th October, 1854				
inclusive	the cwt.	0	4	0
from and after 10th October, 1854				free
101. China root	lb.			free
102. China or porcelain ware, plain, painted, gilt, and				
ornamented	the cwt.	0	10	0
103. Chip or willow for platting	cwt.			free
104. Cider	tuns			free
105. Cinnabaris nativa	cwt.			free
106. Cinnamon	the lb.	0	0	2
107. Citrate of lime	cwt.			free
108. Citric acid	lb.			free
109. Citron, preserved with salt	*value			free
110. Civet	ounce			free
111. Clocks, viz., not exceeding the value of 5s. each				
the dozen		0	4	0
exceeding the value of 5s. and not exceed-				
ing the value of 12s. 6d. each	the dozen	0	8	0
exceeding the value of 12s. 6d. and not ex-				
ceeding the value of 3l. each	each	0	2	0
exceeding the value of 3l. and not exceed-				
ing the value of 10l. each	each	0	4	0

£ s. d.

Clocks, *continued*, viz. :—

exceeding the value of 10 <i>l.</i> each	. each	0	10	0
<i>(See cap. 107, sec. 44.)</i>				
112. Cloves	the lb.	0	0	2
113. Coals, culm, or cinders	ton	free		
114. Cobalt	ton	free		
ore of	*ton and value	free		
oxide of	*ton and value	free		
115. Cochineal	cwt.	free		
granilla	cwt.	free		
dust	cwt.	free		
116. Cochinella wood	ton	free		
117. Cocoa <i>(See cap. 107, sec. 76.)</i>	the lb.	0	0	1
husks and shells	the lb.	0	0	0½
paste or chocolate	the lb.	0	0	2
118. Coccus indicus <i>(See cap. 107, sec. 76.)</i>	the cwt.	0	5	0
119. Coffee	the lb.	0	0	3
kiln-dried, roasted, or ground	the lb.	0	0	4
<i>(See cap. 107, sec. 76.)</i>				
120. Coir rope, twine, and strands	cwt.	free		
121. Colocynth	lb.	free		
122. Columbo root	cwt.	free		
123. Comfits, dry, until 5th July, 1854 inclusive				
	the lb.	0	0	2
from and after 5th July, 1854	the lb.	0	0	1½
124. Confectionery, until 5th July, 1854 inclusive				
	the lb.	0	0	2
from and after 5th July, 1854	the lb.	0	0	1½
125. Copper, ore of	ton	free		
regulus of	ton	free		
old, fit only to be re-manufactured	ton	free		
unwrought, viz., in bricks or pigs, rose				
copper, and all cast copper	ton	free		
part wrought, viz., bars, rods, or ingots				
hammered or raised	ton	free		
in plates and copper coin	ton	free		
wire	*value	free		

£ s. d.

Copper, *continued*, viz.—

	manufactures of, not otherwise enume-				
	rated or described, and copper plates en-				
	graved	the cwt.	0	10	0
126.	Copperas, blue	ton	free		
	green	ton	free		
	white	ton	free		
127.	Coral, viz., beads. (See beads.)				
	in fragments	lb. and oz.	free		
	whole, polished	lb. and oz.	free		
	unpolished	lb. and oz.	free		
	negligees	the lb.	0	1	0
128.	Cordage, tarred or untarred	cwt.	free		
129.	Cork	ton	free		
130.	Corks, ready made	the lb.	0	0	6
	squared for rounding	the cwt.	0	8	0
	fishermen's	cwt.	free		
131.	Corn, grain, meal and flour, viz.;—(See cap. 107, secs. 41 and 76.)				
	wheat	the quarter	0	1	0
	barley	the quarter	0	1	0
	oats	the quarter	0	1	0
	rye	the quarter	0	1	0
	pease	the quarter	0	1	0
	beans	the quarter	0	1	0
	maize or Indian corn	the quarter	0	1	0
	buck wheat	the quarter	0	1	0
	bear or bigg	the quarter	0	1	0
	wheat meal and flour	the cwt.	0	0	4½
	barley meal	the cwt.	0	0	4½
	oat meal and groats	the cwt.	0	0	4½
	rye meal and flour	the cwt.	0	0	4½
	pea meal	the cwt.	0	0	4½
	bean meal	the cwt.	0	0	4½
	maize or Indian corn meal	the cwt.	0	0	4½
	buck wheat meal	the cwt.	0	0	4½
132.	Cowries	*cwt. and value	free		

£ s. d.

133. Cotton manufactures, viz. :—

East India piece goods, viz. :—

calicoes and muslins, white	<i>pieces and val.</i>	free
dyed or coloured	<i>pieces and value</i>	free
nankeens, not dyed or coloured		

pieces and value freedyed or coloured *pieces and value* free

Cotton manufactures, continued, viz. :—

handkerchiefs, dyed or coloured *pieces & value* free

manufactures, not being articles wholly or
in part made up, not otherwise charged
with duty **value* free

wool. See wool.

yarn **lb. and value* free

fringe the lb. 0 0 2

gloves, of cotton or thread the dozen pairs 0 0 3

stockings, of cotton or thread
the dozen pairs 0 0 6

socks or half hose, of cotton or thread
the dozen pairs 0 0 3

articles or manufactures of cotton, wholly
or in part made up, not otherwise charged
with duty . . . for every 100*l.* value 5 0 0

134. Cranberries *gallon* free135. Crayons **value* free136. Cream of tartar *cwt.* free137. Crystal, viz. :— rough **value* freecut or manufactured, except beads **value* free138. Cubebs *lb.* free

139. Cubic nitre. See nitre.

140. Cucumbers, viz., preserved in salt . . . **value* free

141. Currants (*See cap. 107, secs. 76 and 110.*) . the cwt. 0 15 0
and 5 per cent. thereon.

142. Cutch *ton* free

143. Daguerreotype plates the lb. 0 0 3

144. Dates the cwt. 0 10 0

		£	s.	d.
145. Diamonds	(See cap. 107, sec. 49.)			free
146. Dice	the pair	1	1	0
147. Divi divi	ton			free
148. Down	lb.			free
149. Drugs, not enumerated	cwt.			free
150. Earthenware, not otherwise enumerated or described	the cwt.	0	10	0
151. Ebony	ton			free
152. Eggs	the 120	0	0	4
	of and from British Possessions the 120	0	0	2½
153. Elder flower water	lb.			free
154. Embroidery and needlework, viz. :—				
	silk net, figured with the needle, being imitation lace, and articles thereof	the lb.	0	10 0
	cotton net, figured with the needle, being imitation lace, and articles thereof	the lb.	0	8 0
	curtains, commonly called Swiss, embroidered on muslin or net	the lb.	0	1 0
	all other embroidery not enumerated			
	for every 100 <i>l.</i> value	10	0	0
	of and from British Possessions			
	for every 100 <i>l.</i> value	5	0	0
155. Enamel	lb. and ounce			free
156. Essence of spruce	for every 100 <i>l.</i> value	10	0	0
157. Extract of cardamoms	for every 100 <i>l.</i> value	20	0	0
	coccus indicus	for every 100 <i>l.</i> value	20	0 0
	Guinea grains of Paradise			
	for every 100 <i>l.</i> value	20	0	0
	liquorice	for every 100 <i>l.</i> value	20	0 0
	nux vomica	for every 100 <i>l.</i> value	20	0 0
	opium	for every 100 <i>l.</i> value	20	0 0
	Guinea pepper	for every 100 <i>l.</i> value	20	0 0
	Peruvian or Jesuit's bark			
	for every 100 <i>l.</i> value	20	0	0
	quassia	for every 100 <i>l.</i> value	20	0 0
	radix rhatanæ	for every 100 <i>l.</i> value	20	0 0

	£	s.	d.
Extract of vitriol for every 100 <i>l.</i> value	20	0	0
chesnut bark or wood <i>lb.</i>			free
quercitron bark <i>lb.</i>			free
logwood <i>lb.</i>			free
safflower <i>lb.</i>			free
bark, or of other vegetable substances to be used for tanning or other manufacturing purposes <i>cwt.</i>			free
158 Extract or preparation of any article, not par- ticularly enumerated, nor otherwise charged with duty (<i>See cap. 107, sec. 44.</i>), for every 100 <i>l.</i> value	20	0	0
or, and in lieu of the above duty, at the option of the importer . . . the <i>lb.</i>	0	5	0
159. Feathers for beds, in beds or otherwise . . <i>cwt.</i>			free
ostrich, dressed the <i>lb.</i>	0	3	0
undressed <i>lb. and ounce</i>			free
paddy bird, dressed the <i>lb.</i>	0	3	0
undressed <i>lb. and ounce</i>			free
not otherwise enumerated or described, viz. :—			
dressed the <i>lb.</i>	0	3	0
undressed <i>*value</i>			free
160. Figs (<i>See cap. 107, secs. 76 and 110.</i>), . . . the <i>cwt.</i>	0	15	0
			and 5 per cent. thereon.
161. Fig cake the <i>cwt.</i>	0	15	0
162. Fish, viz. :—(<i>See cap. 107, secs. 49 and 175.</i>)			
anchovies <i>lb.</i>			free
cod <i>cwt.</i>			free
caplin <i>cwt.</i>			free
eels, shiploads			free
in small quantities . . . <i>cwt.</i>			free
herrings <i>cwt.</i>			free
lobsters (<i>See cap. 107, sec. 49.</i>) . . . <i>number</i>			free
mackerel <i>cwt.</i>			free
oysters <i>bushels</i>			free
salmon <i>cwt.</i>			free
soles <i>cwt.</i>			free

£ s. d.

Fish, *continued*, viz. :—

sounds and tongues	cwt.	free
turbots	cwt.	free
turtle	cwt.	free
fresh, not otherwise enumerated	cwt.	free
cured, not otherwise enumerated	cwt.	free
163. Flax, dressed	cwt.	free
rough or undressed	cwt.	free
tow and codilla of	cwt.	free
164. Flock for paper stainers	cwt.	free
165. Flocks	cwt.	free
166. Flower roots	*value	free
167. Flowers, artificial, whether of silk or of other materials, per cubic foot as packed ; no allow- ance for vacant spaces the cubic foot		0 12 0
168. Frames for pictures, prints, drawings, or mirrors *value		free
169. Fruit, viz., raw, not otherwise enumerated the bushel		0 0 2
170. Furniture woods, not particularly enumerated, except ash, beech, birch, elm, oak, wainscot	ton	free
171. Fustic	ton	free
172. Gallic powder	ton	free
173. Galls	cwt.	free
174. Gamboge	cwt.	free
175. Garancine	cwt.	free
176. Garnets, cut, not set lb. and ounce		free
uncut lb. and ounce		free
177. Gauze of thread	*value	free
178. Gelatine	cwt.	free
179. Gentian	ton	free
180. Ginger the cwt.		0 10 0
of and from British Possessions the cwt.		0 5 0
preserved, until 5th July, 1854, inclu- sive the lb.		0 0 2
from and after 5th July, 1854 the lb.		0 0 1½

		£	s.	d.
181. Ginseng	ton	free		
182. Glass, viz. :—				
any kind of window glass, white, or stained of one colour only, (except plate or rolled glass,) and shades and cylinders, until the 5th April, 1855, inclusive	the cwt.	0	2	6
from and after 5th April, 1855, until 5th April, 1857 inclusive	the cwt.	0	1	6
from and after 5th April, 1857 . . .		free		
flint cut glass, flint coloured glass, and fancy ornamental glasses, of whatever kind	the cwt.	0	10	0
plate glass, cast or rolled, of whatever thickness, whether silvered, polished, or rough	lb.	free		
painted	lb.	free		
white flint glass bottles, not cut, engraved, or otherwise ornamented . . .	lb.	free		
Beads and bugles. See beads.				
Wine glasses, tumblers, and all other white flint glass goods, not cut, engraved, or otherwise ornamented . . .	lb.	free		
bottles of glass covered with wicker (not being cut glass) or of green or common glass	lb.	free		
articles of green or common glass . .	lb.	free		
manufactures, not otherwise enumerated or described, and old broken glass fit only to be re-manufactured . . .	lb.	free		
183. Glue	cwt.	free		
clippings or waste of any kind fit only for glue	*value	free		
184. Gold, leaves of	number	free		
ore of, and ore of which the greater part in value is gold . . .	ton and value	free		
185. Grains, Guinea, and of Paradise . .	the cwt.	0	15	0

(See cap. 107, sec. 76.)

		£	s.	d.
186. Grapes	the bushel	0	0	2
187. Grease	cwt.			free
188. Greaves, for dogs	cwt.			free
tallow	ton			free
189. Guano	ton			free
190. Gum, viz. :—				
animi	cwt.			free
copal	cwt.			free
Arabic	cwt.			free
Senegal	cwt.			free
Lac dye	cwt.			free
seed lac	cwt.			free
shellac	cwt.			free
sticklac	cwt.			free
Ammoniacum	cwt.			free
asafoetida	cwt.			free
euphorbium	cwt.			free
guaiacum	cwt.			free
kino	cwt.			free
mastic	cwt.			free
tragacanth	cwt.			free
unenumerated	cwt.			free
191. Gunpowder (<i>See cap. 107, secs. 45, 180, 189.</i>)	cwt.			free
192. Gun stocks in the rough, of wood	cwt.			free
193. Gutta percha	cwt.			free
manufactures of, not moulded, such as bands, sheets, soles, tubing				
	the cwt.	0	5	0
articles moulded	the lb.	0	0	2
194. Gypsum	ton			free
195. Hair, viz. :—				
camel's hair or wool	lb.			free
cow, ox, bull, or elk hair	cwt.			free
goat's hair or wool. See wool.				
horse hair	cwt.			free
human	lb.			free

£ s. d.

Hair, *continued*, viz.:—

unenumerated	*value	free
manufactures of hair or goat's wool, or of hair or goat's wool and any other mate- rial, not particularly enumerated or otherwise charged with duty	*value	free
manufactures of hair or goat's wool, or of hair or goat's wool and any other mate- rial, wholly or in part made up, not particularly enumerated or otherwise charged with duty for every 100 <i>l.</i> value		5 0 0
196. Hams, of all kinds	cwt.	free
197. Harp-strings, or lute-strings silvered	*value	free
198. Hats or bonnets, viz:—		
of chip	the lb.	0 2 6
of bast, cane, or horsehair	the lb.	0 2 6
of straw	the lb.	0 2 6
of felt, hair, wool, or beaver	each	0 1 0
199. Hats of silk or silk shag, laid upon felt, linen, or other material	each	0 1 0
200. Hay	loads and trusses of 56 lbs. each	free
201. Heath for brushes	cwt.	free
202. Hellebore	cwt.	free
203. Hemp, viz:—		
dressed	cwt.	free
rough or undressed	cwt.	free
tow and codilla of hemp	cwt.	free
jute	cwt.	free
other vegetable substances of the nature and quality of undressed hemp, and applicable to the same purposes	cwt.	free
204. Hides, not tanned, tawed, curried, or in any way dressed, dry	cwt.	free
wet	cwt.	free
tawed, curried, or in any way dressed, not being varnished, japanned, or ena- melled	lb.	free

£ s. d.

Hides, *continued*, viz. :—

	if varnished, japanned, or enamelled	free
	losh hides lb.	free
	Muscovy or Russia hides, or pieces there- of, tanned, coloured, shaved, or other- wise dressed lb.	free
	Hides or pieces thereof, raw or undressed, unenumerated *value	free
	in any way dressed, not otherwise enumerated *value	free
	tails, buffalo, bull, cow, or ox . . cwt.	free
	tanned, not otherwise dressed . . lb.	free
205.	Hones number	free
206.	Honey cwt.	free
207.	Hoofs of cattle *value	free
208.	Hoops of wood. See wood.	
209.	Hops the cwt.	2 5 0
210.	Horns, horn tips, and pieces of horn . . ton	free
211.	Ice ton	free
212.	Indigo cwt.	free
213.	Ink, for printers cwt.	free
	Indian lb.	free
214.	Inkle, unwrought lb.	free
	wrought lb.	free
215.	Iron, ore of ton	free
	pig ton	free
	bars, unwrought ton	free
	wire cwt.	free
	rough castings cwt.	free
	bloom ton	free
	chromate of ton	free
	slit or hammered into rods . . . ton	free
	cast ton	free
	hoops ton	free
	old broken, and old cast iron . . . ton	free

£ s. d.

- | | | | | | |
|------|---|----------------|------|----|---|
| 216. | Iron and steel, wrought or manufactured, viz.—
machinery, wrought castings, tools, cutlery,
and other manufactures of iron or steel,
not enumerated. | the cwt. | 0 | 2 | 6 |
| | fancy ornamental articles of iron or steel | the cwt. | 0 | 15 | 0 |
| 217. | Isinglass | cwt. | free | | |
| 218. | Jalap | lb. | free | | |
| 219. | Japanned or lacquered ware for every 100 <i>l.</i> value | | 10 | 0 | 0 |
| 220. | Jet | lb. and ounces | free | | |
| 221. | Jewels, emeralds, and all other precious stones,
set for every 100 <i>l.</i> value | | 10 | 0 | 0 |
| | unset | *value | free | | |
| 222. | Juice of lemons, limes, or oranges . | gallon | free | | |
| 223. | Kernels. See nuts. | | | | |
| 224. | Kingwood | ton | free | | |
| 225. | Lace, and articles thereof, viz.:—
mohair or worsted the lb. | | 0 | 1 | 0 |
| | thread or cotton pillow lace (not being
Brussels point or Saxon bone lace), not
exceeding one inch in width . the lb. | | 1 | 0 | 0 |
| | exceeding one inch in width the lb. | | 2 | 0 | 0 |
| | silk pillow lace (not being Saxon wire ground
lace) and application . . . the lb. | | 1 | 10 | 0 |
| | Silk Saxon wire ground lace, and all lace
known as Maltese . . . the lb. | | 0 | 8 | 0 |
| | Brussels point and other lace, made by the
hand, not otherwise charged with duty
for every 100 <i>l.</i> value | | 10 | 0 | 0 |
| 226. | Lacquered ware. See Japanned ware. | | | | |
| 227. | Lamp black | cwt. | free | | |
| 228. | Lapis Calaminaris | ton | free | | |
| 229. | Lard | cwt. | free | | |
| 230. | Latten | cwt. | free | | |
| | shaven | cwt. | free | | |
| | wire | *value | free | | |

		£	s.	d.
231.	Lavender flowers lb.	free		
232.	Lead, ore of ton	free		
	black ton	free		
	pig and sheet ton	free		
	red ton	free		
	white ton	free		
	chromate of ton	free		
	manufactures of, not otherwise enumerated			
	the cwt.	0	2	0
233.	Leather manufactures, viz. :—			
	boots, shoes, and calashes, viz.			
	women's boots and calashes			
	the dozen pairs	0	6	0
	if lined or trimmed with fur or other			
	trimmings . . . the dozen pairs	0	7	6
	shoes with cork or double soles, quilted			
	shoes and clogs . the dozen pairs	0	5	0
	if trimmed or lined with fur or any other			
	trimming . . . the dozen pairs	0	6	0
	womens' shoes of silk, satin, jean, or other			
	stuffs, kid, Morocco, or other leather			
	the dozen pairs	0	4	6
	if trimmed or lined with fur or any			
	other trimming . the dozen pairs	0	5	0
	girls' boots, shoes, and calashes, not ex-			
	ceeding seven inches in length, to be			
	charged with two thirds of the above			
	duties.			
	mens' boots and shoes :—			
	if the quarter do not exceed two and			
	three quarter inches, or the vamp			
	four inches in height from the sole			
	inside . . . the dozen pairs	0	7	0
	if either the quarter or vamp exceed			
	the above dimensions, but do not			
	exceed six inches in height from			
	the sole inside . the dozen pairs	9	10	6

£ s. d.

Leather manufactures, *continued*, viz. :—

mens' boots and shoes :—

if either the quarter or vamp do exceed

six inches in height from the sole

inside . . . the dozen pairs 0 14 0

Boys' boots, not exceeding seven inches

in length. . . the dozen pairs 0 9 4

shoes, not exceeding seven inches

in length. . . the dozen pairs 0 4 8

boot fronts, not exceeding nine inches in

height . . . the dozen pairs 0 1 9

exceeding nine inches in

height . . . the dozen pairs 0 2 9

boot backs . . . the dozen pairs 0 1 6

cut into shapes. . . the cwt. 0 10 0

gloves of leather, the following duties,

with 5 per cent. thereon, viz. :—

habit mitts . . . the dozen pairs 0 2 4

gloves . . . the dozen pairs 0 3 6

men's gloves . . . the dozen pairs 0 3 6

women's gloves or mitts

. . . the dozen pairs 0 4 6

any articles made of leather or any manu-

facture whereof leather is the most

valuable part, not otherwise enume-

rated or described

for every 100*l.* value 10 0 0

234. Leaves of gold. See gold.

235. Leaves of roses *lb.* free236. Leeches **value* free

237. Lentils. See seeds.

238. Lignum vitæ *ton* free

239. Linen or linen and cotton manufactures, viz. :—

cambric handkerchiefs, hemmed or hem-

stitched, not trimmed . . . the dozen 0 2 6

stays the dozen pairs 0 4 0

£ s. d.

Linen, &c., *continued*, viz.:—

articles, manufactures of linen, or of linen mixed with cotton or wool, wholly or in part made up, not particularly enume- rated, or otherwise charged with duty				
for every 100 <i>l.</i> value		5	0	0
cambrics and lawns, commonly called				
French lawns, plain	square yard	free		
Bordered handkerchiefs	square yard	free		
Lawns of any sort, not French	*value	free		
Damasks	square yard	free		
damask diaper	square yard	free		
Sails of all sorts	*value	free		
plain linens and diaper, whether chequered or striped with dyed yarn or not		*value	free	
manufactures of linen, or of linen mixed with cotton or with wool, not particu- larly enumerated or otherwise charged with duty, not being articles wholly or in part made up		*value	free	
240. Liquorice paste	the cwt.	1	0	0
of and from British possessions	the cwt.	0	10	0
powder	the cwt.	1	0	0
of and from British possessions	the cwt.	0	15	0
Root, until 5th April 1857 inclusive	the cwt.	0	5	0
from and after 5th April 1857		free		
juice	the cwt.	1	0	0
241. Litharge	ton	free		
242. Live Creatures, illustrative of Nat. History	*value	free		
243. Logwood	ton	free		
244. Lucifers, of Wood, in Boxes containing not more than 100 matches, the Gross of Boxes		0	0	2
in Boxes containing more than 100 matches	the gross of boxes	0	0	3
vesta, of wax, in boxes not exceeding 1,000 matches	the doz. boxes	0	0	6

£ s. d.

Lucifers, *continued*, viz. :—

vesta, of wax, in boxes exceeding 1,000 matches	the 1,000 matches	0	0	0½
245. Maccaroni. See Vermicelli.				
246. Mace	the lb.	0	1	0
247. Madder	cwt.	free		
root	cwt.	free		
248. Magna græcia ware	*value	free		
249. Mahogany	ton	free		
250. Mandioca flour	the cwt.	0	0	4½
251. Manganese, ore of	ton	free		
252. Manna	lb.	free		
253. Manna croup	the cwt.	0	0	4½
254. Manures not enumerated	ton	free		
255. Manuscripts	lb.	free		
256. Maps or charts, or parts thereof, plain or coloured	number	free		
257. Maple wood	ton	free		
258. Marmalade, until 5th July 1854 inclusive	the lb.	0	0	2
from and after 5th July, 1854	the lb.	0	0	1½
259. Mats and matting	*value	free		
260. Mattresses	*value	free		
261. Mead or Metheglin	gallon	free		
262. Meat, salt or fresh, not otherwise described	cwt.	free		
preserved in any other way than salted	cwt.	free		
263. Medals of gold or silver	*value	free		
of any other sort	*value	free		
264. Medlars	the bushel	0	0	2
265. Mercury, prepared	*value	free		
266. Metal, bell	ton	free		
leaf, not gold	the packet, containing 250 leaves	free		
267. Mill-boards	the lb.	0	0	2½
268. Minerals and fossils, unenumerated	*value	free		
269. Models of cork or wood	*value	free		
270. Morphia and its salts	the lb.	0	5	0

£ s. d.

271. Moss, viz.:—

lichen islandicus	ton	free
rock, for dyers use	ton	free
other than rock or Iceland moss	*value	free

272. Mother-o'-Pearl shells *cwt. and value free

273. Musical instruments, viz.:—

musical boxes, small, not exceeding four inches in length	the air	0	0	3
large	the air	0	0	8
overtures, or extra accompaniments	the air	0	2	6
pianofortes, horizontal grand	each	3	0	0
upright or square	each	2	0	0
harmoniums or seraphines, not exceeding three stops	each	0	12	0
four stops, and not exceeding seven stops	each	1	4	0
eight stops, and not exceeding eleven stops	each	1	10	0
exceeding eleven stops	each	2	0	0
accordions, commonly called Chinese the 100 notes		0	1	0
other sorts, including flutinas, and common German concertinas the 100 notes		0	5	0
concertinas of octagon form, not common German	each	0	4	0
brass instruments, all sorts	the lb.	0	0	9
musical instruments, not otherwise enumerated or described for every 100l. value		10	0	0

274. Musk ounces free

275. Mustard, flour the cwt. 0 1 6
mixed or manufactured, except flour the cwt. 0 5 0

276. Myrobolanes. See berries.

277. Myrrh cwt. free

278. Naphtha gallon free

		£	s.	d.
279.	New Zealand wood ton	free		
280.	Nicaragua wood ton	free		
281.	Nickel, ore of *value	free		
	metallic, and oxide of, refined *value	free		
	arsenate of, in lumps or powder, being in an unrefined state *value	free		
282.	Nitre, viz., cubic nitre cwt.	free		
283.	Nutmegs except those commonly called wild the lb.	0	1	0
	wild, in the shell the lb.	0	0	8
	not in the shell the lb.	0	0	5
284.	Nuts, viz. :—			
	chesnuts bushel	free		
	coco nuts number	free		
	pistachio nuts cwt.	free		
	small nuts the bushel	0	1	0
	walnuts the bushel	0	1	0
	nuts and kernels of walnuts, of peach stones, and all nuts and kernels unenumerated, commonly used for expressing oil there- from ton	free		
	nuts and kernels unenumerated *value	free		
285.	Nux vomica (See cap. 107, sec. 76.) . . . the cwt.	0	2	0
286.	Oakum cwt.	free		
287.	Ochre cwt.	free		
288.	Oil of almonds the lb.	0	0	1
	animal cwt.	free		
	bays the lb.	0	0	1
	castor cwt.	free		
	chemical, essential, or perfumed, viz. :—			
	bergamot the lb.	0	1	0
	carraway the lb.	0	1	0
	cassia the lb.	0	1	0
	cloves the lb.	0	1	0
	lavender the lb.	0	1	0
	lemon the lb.	0	1	0
	mint and spearmint the lb.	0	1	0

Oil, *continued*, viz. :—

		£	s.	d.
	oil or otto of roses	the lb.	0	1 0
	peppermint	the lb.	0	1 0
	spike	the lb.	0	1 0
	thyme	the lb.	0	1 0
	unenumerated	the lb.	0	1 0
	cocoa nut	cwt.		free
	hempseed	tun		free
	lard	*value		free
	linseed	tun		free
	olive	tun		free
	palm	cwt.		free
	paran	tun		free
	rapeseed	tun		free
	rock	cwt.		free
	rosin	cwt.		free
	seed unenumerated	tun		free
	train oil or blubber	tun		free
	spermaceti, or head matter	tun		free
	walnut	cwt.		free
	or spirit of turpentine	cwt.		free
	not particularly enumerated or described, nor otherwise charged with duty	*value		free
289.	Oilseed cake	ton		free
290.	Oilcloth, for table covers	the square yard	0	0 1
291.	Olibanum	cwt.		free
292.	Olives	gallons		free
293.	Olive wood	ton		free
294.	Onions	the bushel	0	0 1
295.	Opium (<i>see cap. 107, sec. 76</i>)	the lb.	0	1 0
296.	Orange flower water	lb.		free
297.	Oranges and lemons (<i>see cap. 107, sec. 76</i>)	the bushel	0	0 8
	peel of, viz. :—			
	orange peel	cwt.		free
	lemon peel	cwt.		free
298.	Orchal	cwt.		free
299.	Ore, unenumerated	*value		free

	£	s.	d.
300. Orpiment cwt.			free
301. Orris root cwt.			free
302. Orsedew cwt.			free
303. Painter's colours, unenumerated, viz. :—			
unmanufactured *value			free
manufactured *value			free
304. Palmetto thatch cwt.			free
manufactures of *value			free
305. Paper, viz. :—			
brown paper, made of old rope or cordage only, without separating or extracting the pitch or tar therefrom, and without any mixture of other materials therewith			
the lb.	0	0	2½
printed, painted, or stained paper hang- ings, or flock paper . the square yard	0	0	1
waste paper, or paper of any other sort, not particularly enumerated or described, not otherwise charged with duty . the lb.	0	0	2½
gilt, stained, coloured, embossed, and all fancy kinds, not being paper hangings			
the lb.	0	0	2½
306. Parchment sheet			free
307. Partridge wood ton			free
308. Pasteboard the lb.	0	0	2½
309. Pearls *value			free
310. Pears, raw the bushel	0	0	8
dried the bushel	0	1	0
311. Pencils, of slate *value			free
not of slate *value			free
312. Pens *value			free
313. Pepper of all sorts (<i>see cap. 107, sec. 76</i>) . the lb.	0	0	6
and 5 per cent. thereon.			
314. Percussion caps the 1,000	0	0	1
315. Perfumery, not otherwise enumerated . the lb.	0	0	2
316. Perry tun			free

		£	s.	d.
317. Pewter, manufactures of, not otherwise enumerated	the cwt.	0	2	0
318. Phosphorus	*value	free		
319. Pickles preserved in vinegar	the gallon	0	0	1
and vegetables, preserved in salt	*value	free		
320. Pictures (See cap. 107, sec. 44.)	number	free		
321. Pimento	the cwt.	0	5	0
322. Pink root	lb.	free		
323. Pipes of clay. See Tobacco pipes.				
324. Pitch	cwt.	free		
Burgundy	cwt.	free		
325. Plantains	cwt.	free		
326. Plants, shrubs and trees, alive	*value	free		
327. Plaster of Paris	ton	free		
328. Plate, of gold (See cap. 107, sec. 190.)	the oz. troy	1	1	0
of silver, gilt or ungilt	the oz. troy	0	1	8
battered	oz. troy	free		
329. Platina, and ore of	*value	free		
330. Platting, or other manufactures of straw, chip, or other materials to be used in, or proper for making or ornamenting hats or bonnets, not otherwise enumerated or charged with duty	the lb.	0	2	0
Cordonet, single and twist of straw, or of other materials	the lb.	0	0	6
willow squares	the dozen	0	0	1
331. Plums, commonly called French plums, and prunellos	the cwt.	0	15	0
dried or preserved (except in sugar), not otherwise described	the cwt.	0	15	0
preserved in sugar, until 5th July, 1854, inclusive	the lb.	0	0	2
from and after 5th July, 1854, the lb.		0	0	1½
332. Pollard	cwt.	free		
333. Pomatum	the lb.	0	0	2
334. Pomegranates	number	free		
peel of	cwt.	free		

		£	s	d.
335. Pork, salted (not hams)	cwt.	free		
fresh	cwt.	free		
336. Potatoes	cwt.	free		
337. Potatoe flour	the cwt.	0	0	4½
338. Pots, viz. :—				
melting pots for goldsmiths	number	free		
of stone	*value	free		
339. Poultry and game, alive or dead, including rabbits				
	*value	free		
340. Powder, viz. :—				
hair powder	the lb.	0	0	2
perfumed	the lb.	0	0	2
not otherwise enumerated or described, that				
will serve the same purpose as starch				
	the cwt.	0	0	4½
341. Prints and drawings, viz. :— (See cap. 107, sec. 44.)				
plain or coloured	the lb.	0	0	3
admitted under treaties of international				
copyright	the lb.	0	0	1½
342. Prunes	the cwt.	0	7	0
343. Prussiate of potash	lb.	free		
344. Puddings. See sausages.				
345. Purple wood	ton	free		
346. Quassia	the cwt.	0	1	0
347. Quicksilver	lb.	free		
348. Quills, viz., goose	number	free		
swan	number	free		
349. Quinces	the bushel	0	0	3
350. Quinine, sulphate of	the oz.	0	0	6
351. Radix contrayervæ	lb.	free		
Enulæ campanæ	cwt.	free		
eringii	cwt.	free		
ipecacuanhæ	lb.	free		
rhatanæ	lb.	free		
senekæ	lb.	free		
serpentariæ, or snake root	lb.	free		

£ s. d.

352. Rags, viz. :—

rags, old ropes, or junk, old fishing nets, fit only for making paper or pasteboard	ton	free
woollen rags	ton	free
pulp of rags	ton	free
353. Raisins (<i>see cap. 107, secs. 76 & 110</i>)	the cwt.	0 10 0
354. Rape of grapes	ton	free
355. Red wood or guinea wood	ton	free
356. Rhubarb	lb.	free
357. Rice, viz. :— (<i>see cap. 107, sec. 76</i>)		

not rough or in the husk	the cwt.	0 0 4½
rough and in the husk	the qr.	0 0 9
dust for feeding cattle	cwt.	free

Upon exportation from the United Kingdom of any foreign rice or paddy cleaned therein, which shall have paid the duties payable on the importation thereof, and having been deposited in some bonded warehouse within one calendar month from the date of such payment, shall have there remained secured until the time of exportation, the exporter making declaration that such rice was cleaned from rough rice or paddy upon which the duties had been paid there shall be allowed and paid for every hundred-weight thereof a drawback equal in amount to the duty paid on every four bushels of the rough rice or paddy from which the same shall have been cleaned cwt.

358. Rose water	lb.	free
359. Rose wood	ton	free
360. Rosin	cwt.	free
Oil of. See Oil.		
361. Saccharum Saturni	cwt.	free
362. Safflower	cwt.	free

		£	s.	d.
363. Saffron	lb.			free
364. Sago	the cwt.	0	0	4½
365. Sal, viz. :				
ammoniac	cwt.			free
limonum	cwt.			free
prunellæ	cwt.			free
366. Salep, or salop	cwt.			free
367. Salicine	the oz.	0	0	3
368. Salt (<i>See cap, 107, sec. 175</i>)	ton			free
369. Saltpetre	cwt.			free
370. Sanguis draconis	cwt.			free
371. Santa Maria wood	ton			free
372. Sapan wood	ton			free
373. Sarsaparilla	lb.			free
374. Sassafras	cwt.			free
375. Satin wood	ton			free
376. Sauces, not otherwise enumerated	the lb.	0	0	1
377. Saunders, viz. :—				
red	ton			free
white or yellow	ton			free
378. Sausages or puddings	lb.			free
379. Scaleboards	the cwt.	0	1	0
380. Scammony	lb.			free
381. Seeds, viz. :—				
acorns	bushel			free
aniseed	cwt.			free
beans, kidney or French	bushel			free
burnet	cwt.			free
canary	cwt.			free
caraway	the cwt.	0	5	0
of and from British Possessions				
	the cwt.	0	2	6
carrot	cwt.			free
clover	cwt.			free
colchicum	cwt.			free
cole	quarter			free

Seeds, *continued*, viz. :—

coriander	cwt.	free
croton	quarter	free
cummin	cwt.	free
dari	cwt.	free
fenugreek	cwt.	free
flax	quarter	free
forest	cwt.	free
garden, unenumerated	lb.	free
grass seeds of all sorts	cwt.	free
hemp	quarter	free
leek	cwt.	free
lentils	bushel	free
lettuce	quarter	free
linseed	quarter	free
lucerne	cwt.	free
lupine	cwt.	free
maw	quarter	free
millet	cwt.	free
mustard	cwt.	free
onion	cwt.	free
parsley	cwt.	free
poppy	quarter	free
quince	cwt.	free
rape	quarter	free
sesamum	quarter	free
shrub or tree	cwt.	free
tares	quarter	free
trefoil	cwt.	free
worm	cwt.	free
all seeds unenumerated commonly used for expressing oil therefrom	quarter	free
all other seeds not particularly enumerated or described, not otherwise charged with duty	cwt.	free
382. Semolina	the cwt.	0 0 4½
383. Senna	lb.	free

£ s. d.

384. Ships, with their tackle, apparel, and furniture
(except sails), broken up or to be broken
up :—

foreign for every 100*l.* value 5 0 0

British ships, or vessels entitled to be re-
gistered as such, not having been built
in the United Kingdom free

385. Shumach *ton* free

386. Silk, viz. :— (*See cap. 107, secs. 44, 234, 247, 248.*)

knubs or husks of silk and waste silk *cwt.* free

raw silk *lb.* free

thrown silk, not dyed, singles . . . *lb.* free

tram *lb.* free

organzine or crape *lb.* free

dyed, single or tram *lb. & ounce* free

organzine or crape *lb. & ounce* free

millinery of silk, or of which the greater
part of the material is of silk, viz. :—

turbans or caps each 0 3 6

hats or bonnets each 0 7 0

dresses each 1 10 0

corahs, choppas, bandannas and tussore
cloths, viz. :—

in pieces not exceeding $5\frac{1}{2}$ yards in
length the piece 0 0 4

exceeding $5\frac{1}{2}$ and not exceeding $6\frac{1}{2}$
yards the piece 0 0 6

exceeding $6\frac{1}{2}$ and not exceeding $7\frac{1}{2}$
yards the piece 0 0 8

exceeding $7\frac{1}{2}$ and not exceeding $8\frac{1}{2}$
yards the piece 0 0 9

exceeding $8\frac{1}{2}$ and not exceeding $9\frac{1}{2}$
yards the piece 0 0 10

and for every additional yard in length,
the yard 0 0 $1\frac{1}{2}$

£ s. d.

Silks, *continued*, viz. :—

China crape shawls, scarfs, and handkerchiefs, viz :

plain and damask . . . the lb.	0	3	0
embroidered . . . the lb.	0	5	0
damask . . . the running yard	0	0	8

Pongees, viz :—

in pieces not exceeding 15 yards in length . . . the piece	0	2	0
exceeding 15 yards and not exceeding 21 yards in length . . the piece	0	3	0
exceeding 21 yards and not exceeding 31 yards in length . . the piece	0	5	0
handkerchiefs, plain and figured, in pieces not exceeding 9 yards in length . . . the piece	0	1	6
exceeding 9 yards and not exceeding 18 yards in length . . the piece	0	3	0

manufactures of silk, or of silk and any other material not being articles wholly or in part made up, not particularly enumerated or otherwise charged with duty,

for every 100*l.* value 15 0 0

of and from a British Possession,

for every 100*l.* value 5 0 0

articles, manufactures of silk, or of silk and any other material, not particularly enumerated or otherwise charged with duty . . . for every 100*l.* value 15 0 0

of and from a British Possession,

for every 100*l.* value 5 0 0

manufactures of silk, or of silk mixed with metal, or any other material, the produce of Europe, viz. :— (*see cap. 107, sec. 44*)

Silk or satin, plain, striped, figured, or brocaded, viz. :—

broad stuffs . . . the lb.	0	5	0
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£ s. d.

Silks, *continued*, viz.:—

Silk or satin, plain, striped, figured, or brocaded, viz.:—			
articles thereof, not otherwise enumerated the lb.	0	6	0
or, and at the option of the officers of the Customs, for every 100 <i>l.</i> value			
	15	0	0
gauze, or crape, plain, striped, figured, or brocaded, viz.:—			
broad stuffs the lb.	0	9	0
articles thereof, not otherwise enu- merated the lb.	0	10	0
or, and at the option of the officers of the Customs, for every 100 <i>l.</i> value			
	15	0	0
gauze, mixed with silk, satin, or other ma- terials, the gauze being in less proportion than one half part of the fabric, viz.:—			
broad stuffs the lb.	0	9	0
articles thereof, not otherwise enu- merated the lb.	0	10	0
or, and at the option of the officers of the Customs for every 100 <i>l.</i> value			
	15	0	0
velvet, plain or figured, viz.:—			
broad stuffs the lb.	0	9	0
articles thereof, not otherwise enu- merated the lb.	0	10	0
or, and at the option of the officers of the Customs for every 100 <i>l.</i> value			
	15	0	0
broad stuffs, the foundation of which is wholly composed of cotton, or other ma- terials than silk the lb.			
	0	3	0
ribbons, plain silk, of one colour only, the lb.	0	6	0
plain satin, of one colour only, the lb.	0	8	0

Silks, *continued*, viz. :—

£ s. d.

silk or satin, striped, figured, or bro- caded, or plain ribbons of more than one colour the lb.	0	10	0
gauze or crape, plain, striped, figured, or brocaded the lb.	0	14	0
gauze mixed with silk, satin, or other ma- terials, the gauze being in less proportion than one half part of the fabric, the lb.	0	12	0
velvet, or silk embossed with velvet, the lb.	0	10	0
the foundation of which is wholly com- posed of cotton, or other materials than silk the lb,	0	3	6
fancy silk, net or tricot the lb.	0	8	0
plain silk lace or net called tulle, the lb.	0	8	0
manufactures of silk, or of silk mixed with any other materials, called plush, the lb.	0	3	0
black plush, commonly used for making hats the lb	0	1	0
parasols and umbrellas each	0	1	0
damask of silk and wool, or of silk and other materials, for furniture the lb.	0	0	10
manufactures of silk, or of silk mixed with any other materials, not particularly enu- merated or charged with duty, for every 100 <i>l.</i> value	15	0	0
387. Silkworm gut *value	free		
388. Silver ore, or ore of which the greater part in value is silver *ton and value	free		
389. Skins, furs, pelts, and tails, viz. :—			
badger, undressed number	free		
bear „ number	free		
beaver „ number	free		
cat „ number	free		
chinchilla „ number	free		
coney „ number	free		

Skins, continued, viz. :—

		£	s.	d.
deer	number			free
Indian, half dressed	number			free
deer, Indian, tanned, tawed, or in any way dressed	number			free
dog, in the hair, not tanned, tawed, or in any way dressed	number			free
dog fish, undressed	number			free
elk	number			free
ermine	number			free
dressed	number			free
fisher, undressed	number			free
fitch	number			free
fox	number			free
tails	number			free
goat, raw or undressed	number			free
tanned, tawed, or in any way dressed	number			free
goose, undressed	number			free
hare	number			free
husse	number			free
kangaroo	number			free
kid, in the hair, undressed	number			free
dressed	number			free
and dyed or coloured	number			free
Kolinski, undressed	number			free
lamb, undressed in the wool	number			free
tanned or tawed	number			free
and dyed or coloured	number			free
dressed in oil	number			free
leopard, undressed	number			free
lion	number			free
lynx	number			free
marten	number			free
marten tails	number			free
minx	number			free
dressed	number			free

Skins, *continued*, viz. :—

£ s. d.

mole, undressed	number	free
musquash	number	free
nutria	number	free
otter „	number	free
ounce „	number	free
panther „	number	free
pelts „	number	free
tanned, tawed or in any way dressed	number	free
raccoon, undressed	number	free
sable „	number	free
tails or tips, undressed	number	free
seal in the hair, not tanned, tawed, or in any way dressed	number	free
sheep, undressed in the wool	number	free
tanned or tawed	number	free
dressed in oil	number	free
squirrel or Calabar, undressed	number	free
tawed	number	free
tails, undressed	*value	free
swan, undressed	number	free
tiger	number	free
weasel	number	free
wolf	number	free
tawed	number	free
wolverings, undressed	number	free
Skins and furs, or pieces of skins and furs unenumerated, viz. :—		
raw or undressed	*value	free
tanned, tawed, curried, or in any way dressed	*value	free
articles manufactured of skins and furs	*value	free

390. Smalts cwt. free

391. Soap, viz. :—

hard	the cwt.	0	0	8
soft	the cwt.	0	0	8
Naples	the cwt.	0	0	8
scented or fancy soap	the lb	0	0	2

		£	s.	d.
392. Soy	the gallon	0	0	6
393. Spa ware	the cubic foot	0	0	6
394. Specimens of minerals or fossils	<i>*value</i>	free		
illustrative of natural history	<i>*value</i>	free		
395. Speckled wood	ton	free		
396. Spectacles	<i>*value</i>	free		
397. Spelter or zinc, crude in cakes	ton	free		
rolled, but not otherwise manufactured	ton	free		
oxide and white of	ton	free		
rods for bolts	ton	free		
manufactures of, not otherwise enumerated	the cwt.	0	2	0
398. Spermaceti	<i>*lb. and value</i>	free		
399. Spirits or strong waters, of all sorts, viz. :—				

For every gallon of such spirits or strong waters of any strength, not exceeding the strength of proof by Sykes's hydrometer, and so in proportion for any greater or less strength than the strength of proof, and for any greater or less quantity than a gallon, viz. :

Spirits, not being spirits or strong waters, the produce of any British Possessions in America, or the Island of Mauritius, or any British Possessions within the limits of the East India Company's Charter, and not being sweetened spirits or spirits mixed with any articles, so that the degree of strength thereof cannot be exactly ascertained by such hydrometer, viz. :—

Brandy	the gallon	0	15	0
Geneva	the gallon	0	15	0
other than Brandy or Geneva	the gal.	0	15	0
Spirits or strong waters, the produce of any British Possession in America, or the				

Spirits *continued*, viz. :—

£ s. d.

Island of Mauritius, not being sweetened
spirits, or spirits so mixed as aforesaid,
viz. :—

Rum If imported into England	the gallon	0	8	2
If imported into Scotland	the gallon	0	5	0
If imported into Ireland	the gallon	0	3	8

Spirits, other than Rum—

If imported into England	the gallon	0	8	2
If imported into Scotland	the gallon	0	5	0
If imported into Ireland	the gallon	0	3	8

Rum, the produce of any British Possessions within the limits of the East India Company's Charter, in regard to which the Conditions of the Act 4 Vict. Cap. 8,⁽¹⁾ have or shall have been fulfilled, not being sweetened spirits or spirits so mixed as aforesaid :—

If imported into England	the gallon	0	8	2
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(1) The Act above referred to was passed for the purpose of reducing the duty on rum and rum-shrub, the produce of, and imported from, certain British possessions in the East Indies, into the United Kingdom. The conditions entitling such rum or rum-shrub to the reduction granted by this Act are as follow :—1stly. The reduced duties in question are not to take effect unless satisfactory proof be given to Her Majesty in Council that rum and rum-shrub, the produce of any foreign country or of any British possession into which foreign sugar or rum may be imported, have been prohibited to be imported into any British possession within the limits of the East India Company's Charter. 2ndly. As a condition of admitting such rum or rum-shrub at the reduced duties, it was necessary that an Act should be previously passed by the Governor-general in Council of India, for the prevention of the fraudulent adulteration of such rum or rum-shrub. 3rdly. To entitle such rum or rum-shrub to be entered at the reduced duties, it was made incumbent upon the master of the ship importing it, to produce to the chief officer of Customs at the port of importation, a certificate of origin under the hands of the Collector of Customs at the port of shipment, authenticating the locality of production, the quantity, strength, number, and denomination of the packages, the name and master of the exporting ship, and also to make a declaration as to the truth of the certificate and the identity of the articles so imported.

Spirits, *continued*, viz. :—

£ s. d.

If imported into Scotland the gallon 0 5 0

If imported into Ireland the gallon 0 3 8

Rum shrub, however sweetened, the produce of and imported from such possessions, qualified as aforesaid, or of and from any British Possession in America, or the Island of Mauritius :—

If imported into England the gallon 0 8 2

If imported into Scotland the gallon 0 5 0

If imported into Ireland the gallon 0 3 8

Spirits or strong waters (except rum), the produce of any British Possession within the limits of the East India Company's Charter, qualified as aforesaid, not being sweetened spirits, or spirits so mixed as aforesaid the gallon

0 15 0

Spirits, cordials, or strong waters, not being the produce of any British Possession in America, or the Island of Mauritius, nor of any British Possession within the limits of the East India Company's Charter, qualified as aforesaid, being sweetened or mixed as aforesaid; and perfumed spirits, to be used as perfumery only the gallon

1 0 0

Strong waters, except rum shrub, being the produce of any British Possessions in America, or the Island of Mauritius, or of any British Possessions qualified as aforesaid, sweetened or mixed with any article as aforesaid the gallon

1 0 0

Cordials and liqueurs, except rum shrub, being the produce of any British Possession in America, or the Island of Mauritius, or of any British Possession within the limits of the East India Com-

Spirits, *continued*, viz.:—

£ s. d.

pany's Charter, qualified as aforesaid,
being sweetened or mixed as aforesaid

the gallon 0 9 0

Spirits or strong waters imported into the United Kingdom mixed with any ingredient, and although thereby coming under some other denomination, except varnish, shall nevertheless be deemed to be spirits or strong waters, and be subject to duty as such.

(See cap. 107, *secs.* 44, 76, 79, 102, 105, 110, 159, 162, 176, 177, 192, 210, 212 to 214, 234, 236, 242, 247, 257, 261, and 351.)

400. Sponge	<i>lb. and value</i>	free
401. Squills, dried	<i>cwt.</i>	free
not dried	<i>cwt.</i>	free
402. Starch	the <i>cwt.</i>	0 0 4½
gum of, torrifed or calcined	the <i>cwt.</i>	0 0 4½
403. Stavesacre	<i>cwt.</i>	free
404. Stearine, till the 5th April 1858, unless the duty upon tallow shall be sooner repealed, in which case the duty shall cease	the <i>cwt.</i>	0 3 6
after the 5th April, 1858		free
405. Steel, unwrought	<i>ton and value</i>	free
manufactured or wrought. (See Iron.)		
scrap	<i>ton</i>	free
406. Stones, viz.:—		
stone, in lumps, not in any manner hewn	<i>ton</i>	free
slate, in rough blocks or slabs	<i>*value</i>	free
hewn	<i>ton</i>	free
marble, in rough blocks or slabs		
solid feet		free
sawn into slabs or otherwise		
manufactured	<i>cwt.</i>	free
limestone	<i>ton</i>	free
asphalt rock	<i>ton</i>	free
flint	<i>ton</i>	free
felspar and stones, for Potters' use	<i>ton</i>	free
pebble	<i>ton</i>	free

Stones, <i>continued</i> , viz. :—		£	s.	d.
for lithography	cwt.			free
in blocks, shaped or rough scapled	ton			free
mill stones, rough	ton			free
shaped or hewn	ton			free
burr stones, rough	ton			free
shaped or hewn	ton			free
quern stones, rough	ton			free
shaped or hewn	ton			free
dog stones, rough	ton			free
shaped or hewn	ton			free
407. Straw or grass for plaiting	cwt.			free
408. Succades, including all fruits and vegetables, preserved in sugar, not otherwise charged with duty, until the 5th July, 1854, inclu- sive	the lb.	0	0	2
from and after 5th July, 1854	the lb.	0	0	1½
409. Sugar, viz. :—				
sugar or molasses the growth and produce of any British Possession into which the importation of foreign sugar is prohibited, being imported from such British Pos- sion, viz. :—				
candy, brown or white, refined sugar, or sugar rendered by any process equal in quality thereto	the cwt.	0	13	4
white clayed sugar, or sugar rendered by any process equal in quality thereto, not being refined or equal to refined	the cwt.	0	11	8
muscovado, or any other sugar not being equal in quality to white clayed	the cwt.	0	10	0
molasses	the cwt.	0	3	9
sugar or molasses the growth and pro- duce of any other British Possession,				

Sugar *continued*, viz. :—

£ s. d.

being imported from such British

Possession, viz. :—

candy, brown or white, refined sugar,
or sugar rendered by any process
equal in quality thereto, until the
5th July, 1854, inclusive

the cwt. 0 15 4

from and after the 5th July,

1854 . . . the cwt. 0 13 4

white clayed sugar, or sugar rendered
by any process equal in
quality thereto, not being refined
or equal to refined, until the 5th
July, 1854, inclusive

the cwt. 0 12 10

from and after the 5th July,

1854 . . . the cwt. 0 11 8

brown clayed sugar, or sugar rendered
by any process equal in
quality thereto, and not equal to
white clayed, until the 5th July,
1854, inclusive

the cwt. 0 11 10

from and after the 5th July,

1854 . . . the cwt. 0 10 0

muscovado, or any other sugar not
being equal in quality to brown
clayed sugar, until the 5th July,
1854, inclusive

the cwt. 0 11 0

from and after the 5th July,

1854 . . . the cwt. 0 10 0

molasses, until the 5th July, 1854,
inclusive . . .

the cwt. 0 4 2

from and after the 5th July,

1854 . . . the cwt. 0 3 9

sugar or molasses the growth and produce
of any foreign country, and all sugar or

Sugar *continued*, viz. :—

£ s. d.

molasses not otherwise charged with
duty, viz. :—

candy, brown or white, refined sugar, or sugar rendered by any process equal in quality thereto, until the 5th July, 1854, inclusive the cwt.	0	17	4
from and after the 5th July, 1854 the cwt.	0	13	4

white clayed sugar, or sugar ren- dered by any process equal in quality thereto, not being refined or equal to refined, until the 5th July, 1854, inclusive . the cwt.	0	14	0
from and after the 5th July, 1854 the cwt.	0	11	8

brown clayed sugar, or sugar ren- dered by any process equal in quality thereto, and not equal to white clayed, until the 5th July, 1854, inclusive . . . the cwt.	0	13	0
from and after the 5th July, 1854 the cwt.	0	10	0

muscovado, or any other sugar, not being equal in quality to brown clayed sugar, until the 5th July, 1854, inclusive . . . the cwt.	0	12	0
from and after the 5th July, 1854 the cwt.	0	10	0

molasses, until the 5th July, 1854, inclusive the cwt.	0	4	6
from and after the 5th July, 1854, inclusive the cwt.	0	3	9

The following duties shall be drawn back
upon removal to the Isle of Man on such
conditions as the Commissioners of Her
Majesty's Treasury may direct, or upon

Sugar continued, viz. :—

£ s. d.

exportation to foreign parts, of the several descriptions of refined sugar herein-after mentioned, made in the United Kingdom from sugar on which the duties of importation shall have been paid :—

Upon refined sugar, in loaf, complete and whole, or lumps duly refined, having been perfectly clarified and thoroughly dried in the stove, and being of an uniform whiteness throughout, or such sugar pounded, crushed, or broken, or sugar candy,

for every cwt. 0 12 6

Upon bastard or refined sugar broken in pieces, or being ground or powdered sugar, or such sugar pounded, crushed or broken . for every cwt.

0 10 0

(See sec. 3, and cap. 107, secs. 10, 76, 79 to 81, 107, 106, 110, 159, 162, 176 to 178.)

410. Sulphur impressions	*value	free
411. Sweet wood	ton	free
412. Talc	cwt.	free
413. Tallow	the cwt.	0 1 6
of and from British Possessions	the cwt.	0 0 1
vegetable	cwt.	free
414. Tamarinds	lb.	free
415. Tapioca	the cwt.	0 0 4½
416. Tar	last and barrel	free
Barbadoes	cwt.	free
417. Tares. See Seeds.		
418. Tarras	bushel	free
419. Tartaric acid	lb.	free
420. Tea,—until 5th April 1854 inclusive	the lb.	0 1 10
from and after 5th April 1854 until 5th April 1855 inclusive	the lb.	0 1 6
from and after 5th April 1855 until 5th		

Tea continued, viz. :—

		£	s.	d.
April 1856 inclusive	the lb.	0	1	3
from and after April 5th 1856	the lb.	0	1	0

Without any allowance for draft.

(See cap. 107, secs. 76, 212, 214, 234, 247, and 351.)

421. Teasles	number	free
422. Teeth, viz., elephants	cwt.	free
Sea cow, Sea horse, or Sea morse	cwt.	free
423. Telescopes	*value	free
424. Terra, viz., Japonica	ton	free
sienna	ton	free
verde	ton	free
umbra	cwt.	free
425. Thread, not otherwise enumerated or described	*value	free
426. Tiles	*value	free
427. Tin, ore and regulus of	ton	free
in blocks, ingots, bars, or slabs	cwt.	free
foil	the cwt.	0 10 0
manufacturers of, not otherwise enumerated	the cwt.	0 10 0
428. Tincal, unrefined. See borax.		
429. Tobacco, the following duties, with 5 per cent. thereon, viz. :—		
unmanufactd. stemmed or stripped	the lb.	0 3 0
unstemmed	the lb.	0 3 0
manufactured, or segars	the lb.	0 9 0
snuff	the lb.	0 6 0
stalks, and flour of		prohibited.
manufactured in the United Kingdom, made into cut, shag, roll, or carrot tobacco, or cigars, such cigars, when exported as merchandise being packed in cases containing not less than one hundred pounds net weight, a drawback shall be allowed on exportation or shipment as stores	the lb.	0 2 7½

(See cap. 107, secs. 10, 44, 76, 110, 137 to 139, 193, 210, 212 to 214, 234, 236, 239, 247, 257, 259 and 351.)

		£	s.	d.
430.	Tobacco pipes of clay	*value	free	
431.	Tongues	cwt.	free	
432.	Tornsal	cwt.	free	
433.	Tortoise, or turtle shell, unmanufactured	lb.	free	
434.	Toys, viz. :—			
	marbles	the cwt.	0	1 0
	all other toys	the cubic foot	0	0 4
435.	Truffles	lb.	free	
436.	Tulip wood	ton	free	
437.	Turmeric	ton	free	
438.	Turnery, not otherwise described	the cubic foot	0	0 4
439.	Turpentine	cwt.	free	
	of Venice, Scio, or Cyprus	lb.	free	
	oil, or spirit of. See oil.			
440.	Twine	*value	free	
441.	Ultra marine	*cwt. and value	free	
442.	Valonia	ton	free	
443.	Vanilloes	lb.	free	
444.	Varnish, containing any quantity of alcohol or spirit	the gallon	0	12 0
	not otherwise described	*value	free	
445.	Vases, viz. ancient, not of stone or marble	*value	free	
446.	Vegetables, all, not otherwise enumerated or described	*value	free	
	preserved in salt	*value	free	
447.	Vellum	skin	free	
448.	Veneers	the cwt.	0	1 0
449.	Verdigris	cwt.	free	
450.	Verjuice	tun	free	
451.	Vermicelli and macaroni	the cwt.	0	1 0
452.	Vermillion	lb.	free	
453.	Vinegar	the gallon	0	0 3
454.	Wafers	*value	free	
455.	Walnut wood	ton	free	
456.	Washing balls	the lb.	0	0 2

		£	s.	d.
457.	Watches, of gold, silver, or any other metal, exceeding the value of 10 <i>l.</i> each . . . each	1	0	0
	other watches, viz.:—			
	gold, open faces each	0	5	0
	hunters each	0	7	6
	repeaters each	0	15	0
	silver, or any other metal not gold:—			
	open faces each	0	2	6
	hunters each	0	3	6
	repeaters. each	0	8	0
	<i>(See cap. 107, sec. 44)</i>			
458.	Water, Cologne, the flask (thirty of such flasks containing not more than one gallon) . each	0	0	8
	when not in flasks (as perfumed spirit) the gallon	1	0	0
	mineral gallon			free
459.	Wax, viz.:—bleached cwt.			free
	unbleached cwt.			free
	myrtle cwt.			free
	sealing *value			free
	vegetable cwt.			free
460.	Weld ton			free
461.	Whale fins ton			free
462.	Whipcord *value			free
463.	Wine, of and from foreign countries, and 5 per cent. thereon, viz.:—			
	red the gallon	0	5	6
	white the gallon	0	5	6
	lees of such wine the gallon	0	5	6
	the growth and produce of any British Possession, and imported direct from thence, and 5 per cent. thereon—			
	red the gallon	0	2	9
	white the gallon	0	2	9
	lees of such wine the gallon	0	2	9

(See cap. 107, sec. 76, 84, 105, 110, 134 to 136, 179.)

Wine, *continued*, viz. :—

£ s. d.

The full duties on wine may be drawn back upon re-exportation or shipment as stores, but no drawback allowed on lees of wine.

464. Wire, viz. :—gilt or plated . . . *value free
silver *value free
copper or brass. See copper and brass respectively.

465. Woad ton free

466. Wood and timber, the following duties, with 5 per cent. thereon, on all wood and timber the produce of British Possessions, viz. :—

Timber or wood, not being deals, battens, boards, staves, handspikes, oars, lath-wood, or other timber or wood sawn, split, or otherwise dressed, except hewn, and not being timber or wood otherwise charged with duty,

the load of 50 cubic feet 0 7 6

of and from British Possessions,

the load of 50 cubic feet 0 1 0

deals, battens, boards, or other timber of wood sawn or split, and not otherwise charged with duty

the load of 50 cubic feet 0 10 0

of and from British Possessions

the load of 50 cubic feet 0 2 0

Or, in lieu of ascertaining the cubical contents in pile, the importer may have the option, at the time of passing the first entry, in respect of planks, deals, deal ends, battens, and batten ends, not the produce of the British possessions, of entering the same by tale upon a computation of their cubic content, calculated according to the under-mentioned scale, specifying in such entry the number and dimensions of the several pieces included therein; and the duties imposed thereon by

Wood and timber *continued*.

this Act shall be ascertained, computed, and charged upon the planks, deals, deal ends, battens, and batten ends, included in such entry on the cubical contents thereof, computed in conformity with the said scale.

	PLANKS.	DEALS.	BATTENS.		
	3 × 11 inch and not above 3½ × 11½ in.	3 × 9 inch and not above 3½ × 9½ in.	3 × 7 inch and not above 3½ × 7½ in.	2½ × 7 inch and not above 2¾ × 7½ in.	2½ × 6½ inch and not above 2¾ × 6¾ in.
	Cubic Feet.	Cubic Feet.	Cubic Feet.	Cubic Feet.	Cubic Feet.
Not above 4 feet in length, the 120	115	95	73	61	57
Above 4 feet and not above 5 feet in length, the 120 . .	144	118	91	77	71
Above 5 feet and not above 6 feet in length, the 120 . .	178	142	110	92	86
Above 6 feet and not above 7 feet in length, the 120 . .	202	165	128	107	100
Above 7 feet and not above 8 feet in length, the 120 . .	231	189	146	123	114
Above 8 feet and not above 9 feet in length, the 120 . .	260	213	165	138	128
Above 9 feet and not above 10 feet in length, the 120 . .	288	236	183	153	143
Above 10 feet and not above 11 feet in length, the 120 . .	317	260	201	169	157
Above 11 feet and not above 12 feet in length, the 120 . .	346	284	220	184	171
Above 12 feet and not above 13 feet in length, the 120 . .	375	307	238	200	185
Above 13 feet and not above 14 feet in length, the 120 . .	404	331	256	215	200
Above 14 feet and not above 15 feet in length, the 120 . .	433	354	274	230	214
Above 15 feet and not above 16 feet in length, the 120 . .	462	378	293	246	228
Above 16 feet and not above 17 feet in length, the 120 . .	490	402	311	261	242
Above 17 feet and not above 18 feet in length, the 120 . .	519	425	329	276	257
Above 18 feet and not above 19 feet in length, the 120 . .	548	449	348	292	271
Above 19 feet and not above 20 feet in length, the 120 . .	577	473	366	307	285
Above 20 feet and not above 21 feet in length, the 120 . .	606	496	384	322	300

Wood and timber *continued.*

£ s. d.

Staves, exceeding 72 inches in length, 7
inches in breadth, or $3\frac{1}{4}$ inches in thick-

ness . . . the load of 50 cubic feet 0 9 0

Of and from British possessions,

the load of 50 cubic feet 0 2 0

Staves, not exceeding 72 inches in length,
nor 7 inches in breadth, nor $3\frac{1}{4}$ in thick-
ness load free

birch and fir, hewn, not exceeding 3 feet

in length, nor exceeding 8 inches square,

imported for the sole purpose of making

herring barrels for the use of the fisheries

load free

Firewood . the fathom of 216 cubic feet 0 6 0

of and from British possessions,

the fathom of 216 cubic feet free

Handspikes, not exceeding 7 feet in length

the 120 0 6 0

of and from British possessions

the 120 0 0 6

Exceeding 7 feet in length . the 120 0 12 0

of and from British possessions

the 120 0 1 0

Hoops number free

Knees, under 5 inches square the 120 0 3 0

of and from British possessions

the 120 0 0 3

5 and under 8 inches square . the 120 0 12 0

of and from British possessions

the 120 0 1 0

Lathwood . the fathom of 216 cubic feet 0 12 0

of and from British possessions

the fathom of 216 cubic feet 0 1 0

Oars the 120 2 5 0

of and from British possessions

the 120 0 3 9

Wood and timber <i>continued</i> , viz.:—		£	s.	d.
spars or poles, under 22 feet in length, and under 4 inches in diameter	the 120	0	8	0
of and from British possessions	the 120	0	0	8
22 feet in length and upwards, and under 4 inches in diameter	the 120	0	12	0
of and from British possessions	the 120	0	1	0
of all lengths, 4 and under 6 inches in diameter	the 120	1	4	0
of and from British possessions	the 120	0	2	0
spokes for wheels, not exceeding 2 feet in length	the 1,000	1	4	0
of and from British possessions	the 1,000	0	1	0
exceeding 2 feet in length	the 1,000	2	8	0
of and from British possessions	the 1,000	0	2	0
teak	load	free		
waste wood, viz., billet wood, or brush wood used for the purpose of stowage	<i>*value</i>	free		
For shipbuilding, viz.:—				
stringy bark, red and blue gum, green hart, mora and locust woods, and woods formerly admitted at the same duty as teak	load	free		
treenails of stringy bark, red and blue gum, and locust woods, and all treenails of and from British possessions	load	free		
shovel hilts	<i>*value</i>	free		
planed or otherwise dressed or prepared for use, and not particularly enumerated or otherwise charged with duty	per cubic foot	0	0	2
and further for every 100 <i>l.</i> value		10	0	0

Wood and timber <i>continued, viz.:</i> —		£ s. d		
of and from British possessions.				
for every 100 <i>l.</i> value		5	0	0
<i>(See cap. 107, secs. 85, 113, 170 to 172.)</i>				
467. Wool, viz., Alpaca and the Llama tribe .	<i>lb</i>	free		
beaver	<i>lb.</i>	free		
cut and combed	<i>lb.</i>	free		
coney wool	<i>lb.</i>	free		
cotton wool and waste of cotton wool	<i>cwt.</i>	free		
goats wool or hair	<i>lb.</i>	free		
hares wool	<i>lb.</i>	free		
sheep or lambs wool	<i>lb.</i>	free		
468. Woollens, viz. :— manufactures of wool (not being goats wool), or of wool mixed with cot- ton, not particularly enumerated, and not otherwise charged with duty	<i>*value</i>	free		
articles or manufactures of wool (not being goats wool), or of wool mixed with cotton, viz. :—				
carpets and rugs . . the square yard		0	0	6
shawls, scarfs, and handkerchiefs, plain,				
the <i>lb.</i>		0	0	4
printed, the <i>lb.</i>		0	0	8
gloves the dozen pairs		0	0	3
wholly or in part made up, not otherwise charged with duty,				
for every 100 <i>l.</i> value		5	0	0
469. Yarn, cable yarn	<i>lb.</i>	free		
camel or mohair	<i>lb.</i>	free		
raw linen	<i>cwt.</i>	free		
of silk and worsted, spun together and not dyed	<i>lb.</i>	free		
worsted yarn, fit and proper for embroidery,				
the <i>lb.</i>		0	0	6
raw, not dyed, or only partially dyed, and not being fit or proper for embroidering or other fancy purposes . .	<i>lb.</i>	free		

		£	s	d
470. Yeast, dried	cwt.	free		
471. Zaffre	cwt.	free		
472. Zebra wood	ton	free		
<hr/>				
473. Goods, being either in part or wholly manufactured, and not being enumerated or described, nor otherwise charged with duty, and not prohibited to be imported into or used in Great Britain or Ireland	for every 100l. value	10	0	0
474. Goods, not being either in part or wholly manufactured, not enumerated or described, nor otherwise charged with duty, and not prohibited to be imported into or used in Great Britain or Ireland	*value	free		

TABLE (B.)

DUTIES APPLICABLE TO THE ISLE OF MAN.

1. Coffee, the import duties in Great Britain or Ireland not having been there paid thereon,

the lb.	0	0	2
---------	---	---	---
2. Corn, viz., wheat, barley, bear or bigg, oats, rye, peas, beans, buckwheat, maize, or Indian corn the quarter

0	1	0
---	---	---

wheat, meal and flour, barley meal, oat meal, rye meal, and flour pea meal, bean meal, buckwheat meal, and maize or Indian corn meal the cwt.

0	0	4½
---	---	----
3. Hemp free
4. Hops, from Great Britain or Ireland . . . free
5. Iron free
6. Spirits, viz. :—

brandy, Geneva, and all foreign spirits, not

Spirits <i>continued, viz :</i>		£	s.	d.
being liqueurs, cordials, or perfumed spirits	the gallon	0	6	0
rum and rum shrub, of the British Possessions ,	the gallon	0	3	6
British or Irish spirits exported from a duty-free warehouse under bond in the United Kingdom	the gallon	0	3	0
Such spirits not exceeding the strength of proof by Sykes's hydrometer, and so in proportion for any greater or less strength than the strength of proof, and for any greater or less quantity than a gallon.				
7. Eau de Cologne, per flask, (30 not containing more than one gallon)		0	0	4
	or the gallon	0	10	0
8. Liqueurs, cordials, and perfumed spirits,	the gallon	0	10	0
9. Sugar, viz. :—				
muscovado	the cwt.	0	1	0
sugar candy, white or brown, refined sugar, or sugar rendered by any process equal to refined, foreign or British	the cwt.	0	8	0
from and after the 5th of July, 1854,	the cwt.	0	3	0
10. Tea	the lb.	0	1	0
from and after the 5th of July, 1854,	the lb.	0	0	6
11. Tobacco, viz. :—				
unmanufactured	the lb.	0	1	6
manufactured	the lb.	0	4	9
cigars	the lb.	0	4	9
12. Wine	the tun of 252 gallons	12	0	0
13. Wood, all sorts				free
14. Goods, wares, and merchandise brought from Great Britain or Ireland and entitled to any				

Goods wares, &c., <i>continued</i> ,		£	s.	d.
bounty or drawback of Excise on exportation from thence, and not hereinbefore enumerated or charged with duty				free
15. Goods, wares, and merchandise, the growth, produce, or manufacture of and brought from Great Britain or Ireland and not hereinbefore charged with duty				free
16. Goods, wares, and merchandise, not the growth, produce, or manufacture of Great Britain or Ireland but brought from thence, and having there been entered for consumption, and the import duties having been there paid thereon				free
17. Goods, wares, and merchandise imported or brought from any place from whence such goods may be lawfully imported into the Isle of Man, and not hereinbefore charged with duty, or declared to be free of duty, for every 100 <i>l.</i> of the value thereof		15	0	0

P.S.—Since the passing of the Act the following orders have been issued in modification or explanation of the Tariff, with reference to the several articles to which they relate, and to which attention is requisite.

SCHEDULE A.

GINGER. The rate chargeable on colonial ginger is to be charged on all ginger imported, without reference to the place of its production. T. O. 14th and G. O. 18th March, 1854.

GLASS. The rate of 2*s.* 6*d.* per cwt. is chargeable only on shades and cylinders of German sheet glass; and glass globes (for lamps), whether ground, frosted, or otherwise ornamented or fitted with a rim, and chimneys when coloured, are liable to the duty of 10*s.* per cwt., payable on flint glass cut, &c.; but the globes and chimneys when plain are admissible duty free, as flint glass *not* cut. G. O. 18th Oct., 1853.

HATS, for girls, made of plush composed of a mixture of silk or cotton, may be admitted at an *ad valorem* duty of 15 per cent. when the average internal diameter of the crown of the hats does not exceed six and a half inches. T. O. 18th Oct.; G. O. 22nd Oct., 1853.

PICTURES. Daguerreotype impressions, whether portraits or views, may be passed duty free as pictures. G. O. 18th Aug., 1853.

PLUMS, German, may be admitted at the duty payable on prunes, viz., 7s. per cwt. until 1st of Aug., 1854. T. O. 25th Oct.; G. O. 28th Oct., 1853.

SILK. China silk twilled handkerchiefs of similar quality and make to pongees, differing only in the fact of their being twilled instead of plain wove, may be deemed pongees; and "pieces of China crape" may be included under the head of China crape shawls, scarfs, and handkerchiefs, plain, damask and embroidered, at 3s. to 5s. per lb. T. O. 13th Aug.; G. O. 27th Aug., 1853.

— *Velvet Ribbons*, a fixed uniform duty of 6s. 6d. per lb. is to be hereafter charged on all velvet ribbons not exceeding six inches in width, instead of the Tariff rates of 3s. 6d. and 10s. per lb. T. O. 14th Oct.; G. O. 17th Oct., 1853.

— silk plush, articles of, are to be admitted at a rated duty of 3s. 6d. per lb. T. O. 7th January; G. O. 12th Jan., 1854.

SOAP, only of such high quality and in such ornamental forms that it would be classed with perfumery, should be charged with the duty of 2d. per lb., and all other soap at 8d. per cwt. T. O. 9th Jan.; G. O. 16th Jan., 1854.

WINES and Spirits, 83 per cent. is to be considered as the maximum quantity of proof spirit in wines, in order that they may be admitted to duty upon importation as such; and all liquids imported beyond that strength are to be deemed *compounds* and charged with the duty payable on *sweetened spirits*.

TABLE B.

ISLE OF MAN.—Articles liable to the *ad valorem* duty of £15 per cent. on importation into the Isle of Man are to be admitted duty free so long as the Treasury Warrant shall remain in force. T. O. 27th Aug.; G. O. 1st Sept., 1853.

A drawback of the duty on roasted coffee of the British Possessions is allowed on its exportation to the Isle of Man. T. O. 25th and G. O. 26th May, 1827.

A drawback equal to the import duty is allowed on all roasted coffee shipped as stores. T. O. 16th and G. O. 29th May, 1834.

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* The index serves the two-fold purpose of a key to the commentary and to the Customs acts in the appendix, the references to sections being common to both ; the references to pages are chiefly confined to the commentary and notes, the few roman numerals interspersed being applicable to the incorporated and saved clauses, and other incidental matters embraced by the appendix.

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